

**VIRGINIA:**

**BEFORE THE THIRD DISTRICT SUBCOMMITTEE, SECTION I  
OF THE VIRGINIA STATE BAR**

**IN THE MATTER OF  
Henry W. McLaughlin, III**

**VS B Docket No. 23-031-127527**

**SUBCOMMITTEE DETERMINATION  
(PUBLIC REPRIMAND WITH TERMS)**

On May 17, 2023 and June 26, 2023, meetings were held in this matter before a duly convened Third District Subcommittee, Section I consisting of Erin Lyn Torrey Ranney, Subcommittee Chair, Charles Butler Barrett, and Louise Dougherty Hartz. During the meetings, the Subcommittee voted to approve an agreed disposition for a Public Reprimand with Terms pursuant to Part 6, § IV, ¶ 13-15.B.4. of the Rules of the Supreme Court of Virginia. The agreed disposition was entered into by the Virginia State Bar, by Renu M. Brennan, Bar Counsel, and Henry W. McLaughlin, III, Respondent, and James Michael McCauley, Esquire, counsel for Respondent.

WHEREFORE, the Third District Subcommittee, Section I of the Virginia State Bar hereby serves upon Respondent the following Public Reprimand with Terms:

**I. FINDINGS OF FACT**

1. Respondent was licensed to practice law in the Commonwealth of Virginia in 1966. At all times relevant, Respondent has been in good standing with the Virginia State Bar ("VSB").

**GRTC ACCIDENT**

2. By retainer agreement entered into on August 18, 2018, Respondent agreed to represent Complainant LP on a contingency basis, one-third of any amount recovered, plus out-of-pocket expenses, for injuries LP sustained on August 11, 2018, while a passenger on a Greater Richmond Transit Company (GRTC) bus.

3. LP stated that after hiring Respondent in August 2018 she would call him and go by his office to check on the status. She said most of her contact was by phone and that Respondent repeatedly told her to call him back the next week for an update. "He never said what was going on with the case, only to call him back."
4. LP said Respondent never requested her medical bills.
5. Despite assurances by Respondent to LP that matters were progressing, Respondent did not request medical records from providers or do anything to move her case forward.
6. Respondent failed to file suit against GRTC within the statute of limitations ("SOL") on or before August 11, 2020.
7. Respondent did not realize, and thus did not tell LP, that he did not file suit against GRTC until over two years after the SOL expired.
8. On October 11, 2022, while preparing for a meeting with LP regarding the Achievable Development case discussed below, Respondent realized that he never filed suit against GRTC. Upon realizing that he had not filed suit within the SOL, Respondent told LP that she could sue him. Respondent recalls that LP asked him how much she could have gotten in the lawsuit, and he replied \$50,000 because that was the maximum GRTC coverage.
9. Respondent did not and does not have malpractice insurance.
10. When he disclosed to LP that he did not file suit within the SOL, Respondent offered to represent LP without charge on a third case for injuries LP sustained in an April 2, 2021 auto accident while a passenger in a vehicle operated by a driver working for Lyft (the Lyft Accident discussed below).
11. Respondent states his offer to handle LP's case for free was not contingent upon dropping a malpractice claim. Respondent did not try to negotiate any settlements "on any terms on any of her cases."
12. Respondent also stated that LP told him she did not want to sue him, and she forgave him and that he was a good lawyer, everyone makes mistakes, and she appreciated him.
13. In her March 22, 2023 interview with the bar investigator, LP advised the bar that she tried, unsuccessfully, to hire an attorney to sue Respondent.
14. Also, in her March 22, 2023 interview, LP told the bar investigator that Respondent took her paperwork and then did not give her case a second thought and took no action to protect LP's interest in the GRTC case.

## ACHIEVABLE DEVELOPMENT ACCIDENT

15. By retainer agreement entered into June 3, 2020, Respondent agreed to represent LP on a contingency basis, twenty-five percent, plus out-of-pocket expenses, for injuries LP sustained on May 24, 2020, while a passenger in a vehicle. The defendant in this matter is Achievable Development Services, LLC.
16. At that point, LP assumed Respondent had filed suit against GRTC. LP said, "That is why I took the second lawsuit to him. I figured, why run around from lawyer to lawyer? When you got one, stay with one person." LP did not specifically recall discussing the GRTC case in June 2020 but felt sure that she would have mentioned it to Respondent and that he said he was still working on it. Respondent did not recall LP asking him about the GRTC suit when she hired him on the Achievable Development case. He said if LP had asked him, he would have pulled the file and "known to get on it."
17. On April 2, 2021, LP was injured in a third accident while being transported by a Lyft driver. She called Respondent that day, and he agreed to handle the case for her. See discussion below.
18. On July 9, 2021, Respondent timely filed suit against Achievable Development.
19. Achievable Development failed to respond to the lawsuit.
20. From July 9, 2021 to October 11, 2022, Respondent did not take any further action in the lawsuit regarding Achievable Development.
21. As reflected in emails between LP and Respondent after October 11, 2022, after Respondent disclosed to LP that he failed to file suit against GRTC within the SOL, the attorney-client relationship disintegrated, and LP lost faith in Respondent.
22. LP requested a meeting with Respondent on October 17, 2022 to discuss her cases because she worried that Respondent would not take action in the Achievable Development case.
23. Respondent and LP agreed that he would pursue default judgment against Achievable Development.
24. In an undated email, LP asked Respondent to prove that he was going to move for default judgment:  
  
Can you prove to me since you didn't file my claim for GRTC with the court ..., default judgment copy you intend to file.
25. By email dated October 21, 2022, at 7:16 a.m., LP stated to Respondent:

You said during our call you just looked at my claim and put it aside. Many times I asked you about my claim status with GRTC bus accident and you never gave me a reply. I need pictures of default judgment paperwork. I have no proof this claim was filed either. I gave you three lawsuits to file. We don't need to talk just show default judgment paperwork you claim you are working on please sir. Thank you

26. By email dated October 21, 2022, Respondent replied to LP that he would respond to her after he returned from a trip to Yorktown, to which LP replied:

One last question? If it is true about you have my case with Achievable Development why just this one. Why not Lyft and GRTC? I don't think you have a claim at all. Would you just be honest.

27. In a separate October 21, 2022 email to Respondent, LP stated:

I finally found the 3 papers of our legal agreement for your services regarding my accidents. Email me only when you get the chance. If I don't hear from you, I'll have someone contact you regarding this matter.

28. In an undated email, after October 11, 2022 and on or before October 21, 2022, LP stated:

Good morning, sir, would you please file my claim with the court while it's fresh on your mind. Let me know when you do.

29. On October 21, 2022, Respondent filed a motion for default judgment against Achievable Development.

30. By emails exchanged in the first week of November 2022, LP and Respondent discussed LP's concern that Respondent needed to amend the lawsuit against Achievable Development to allege additional injuries and her concern that Respondent would not properly handle the matter after missing the SOL against GRTC and not telling her for two years after missing the SOL. LP wrote to Respondent:

Please amend my case against Achievable development. My back is giving me trouble. I want everything done right. If I had to wait 4 years. To find out my case never got filed against GRTC, I have patience. It will all work out right in the end. I am firm on this. The insurance company needs to know all my injuries and so does the judge.

31. Respondent replied that the injuries were already covered and advised against amending the suit so as not to jeopardize LP's chance of getting default judgment. LP agreed and told Respondent to move forward with default judgment.

32. By emails dated November 8, 2022, LP asked Respondent to go ahead with the default judgment. In one email LP asked and instructed, "What is going on now with the default judgment case? Keep me up to date on everything."

33. By email also dated November 8, 2022, Respondent replied that he filed the motion for default judgment and stated that as he now understood that LP authorized the matter to proceed, he would try to get a court date the next day.
34. By emails dated November 9, 2022, LP told Respondent she wanted to sign the amended retainer agreement on the Lyft matter, detailed below, and she asked for an update and court date on the default judgment in the Achievable Development matter.
35. On November 10, 2022, Respondent and LP met.
36. By email dated November 13, 2022, Respondent explained that he did not get a court date on Friday because it was a holiday and that he would move for a court date on November 14.
37. By email dated November 14, 2022; Respondent advised LP that they had a court date of January 13, 2023 for the hearing on the default judgment and stated he would ask the court to have a jury trial only on the issue of damages. He also told LP that she could, but was not required to, attend the default judgment hearing.
38. By email dated November 16, 2022, LP advised Respondent that he would be contacted about “settlement case in advance” which referred to lawsuit funding on a pre-settlement advance as LP was in the process of applying for a pre-settlement advance regarding her cases with Respondent.
39. From November 28 to December 8, 2022, LP and Respondent exchanged emails regarding two pre-settlement funding companies.
40. After December 8, 2022, LP stopped communicating with Respondent.
41. By emails dated December 14, 2022, Respondent asked LP to call him about the two suits in which he represented her “including the case in which we have a motion for default judgment pending. If it suits you to discuss, please call.” LP did not respond.
42. By email dated January 13, 2023, Respondent advised LP that the Court granted the motion for default judgment and set a trial regarding damages on April 7, 2023. He asked for her to call him to prepare for the trial. LP did not respond.
43. In her March 22, 2023, interview with the bar investigator, LP stated that she does not know what is going on in her Achievable Development case. When asked if Respondent had communicated with her regarding the case, LP stated:

Let me break it down to you like this, when a person do you dirty like that, taking your livelihood and my ability to take care of my medical needs, how much communication do you want with them? How would you like to speak to somebody who took away your benefits from being injured.

44. In reply to the bar investigator's question as to whether LP fired Respondent, LP stated "if I do that, I won't have anything then." She said that Respondent can handle her cases, but she won't be there. "If I get money, mail it to me. Anybody that dirty to do somebody that low, they got a problem."
45. By email dated March 24, 2023, Respondent advised LP by email that she would have to testify at the trial and that he sent her a subpoena because he could not reach her. He also advised of a settlement demand in the Lyft case and asked how she wanted to respond. LP did not respond.
46. On April 7, 2023, Respondent sought and obtained a continuance to May 12, 2023.
47. On May 12, 2023, Respondent sought and obtained a continuance to July 6, 2023.

#### LYFT ACCIDENT

48. As stated above, on April 2, 2021, LP was injured in an accident while a passenger in a car driven by a Lyft driver. LP did not know the driver's identity. LP states that she told Respondent about the accident that day, and he agreed to represent her.
49. After the accident LP spoke with a Lyft agent who wanted to settle the matter. LP states she advised Respondent that she had been in contact with Lyft about settling the matter, and he told her to let him handle it. LP states she heard nothing further from Respondent.
50. As stated above, upon realizing October 11, 2022, that he missed the SOL on the GRTC case, Respondent offered to represent LP for free in the Lyft matter. Respondent asserts that LP initially accepted his offer to handle the matter for free, but LP then changed her mind. LP states she reviewed the Lyft representation agreement Respondent prepared and understood that it said that she would not get a settlement, believed that was not a good thing, and asked Respondent what he would charge. He replied he would charge ten percent. Respondent stated that his original agreement was to charge no fee for the Lyft matter but LP wanted him to charge a fee. Respondent prepared an amended agreement which LP signed in which Respondent would get a 10 percent contingent fee.
51. By retainer agreement entered into on October 27, 2022, Respondent and LP entered into a representation agreement for Respondent to represent LP for her April 2, 2021, accident on a contingency basis, ten percent of any amount recovered.
52. On November 10, 2022, the representation agreement was amended to state that Respondent would file suit against Lyft and include discovery to identify the driver and then amend the suit to add the driver as a defendant.
53. On November 14, 2022, Respondent filed suit against Lyft in Henrico Circuit Court.

54. By email dated November 15, 2022, LP asked Respondent to inform her once he received information regarding the Lyft driver and she requested that he also be sued.
55. By email dated November 15, 2022, Respondent agreed and explained that he was propounding discovery to obtain information regarding the driver's identity.
56. By email dated November 16, 2022, LP advised Respondent that the lawsuit did not identify the correct date of the accident.
57. By email dated November 16, 2022, Respondent agreed to review and amend the suit if necessary but suggested waiting for the answer to discovery regarding the driver so as not to have to amend twice.
58. By email dated December 8, 2022, Respondent told LP he would let her know when he got the name of the driver. LP did not respond to this email nor did she communicate with Respondent after December 8.
59. On December 9, 2022, Lyft filed an answer to the lawsuit.
60. On December 13, 2022, Lyft filed a notice of removal to federal court. Respondent obtained the name of the Lyft driver and was informed that the driver had insurance coverage. Respondent agreed to dismiss the federal suit without prejudice.
61. On December 27, 2022, Respondent filed suit against the driver in Richmond Circuit Court.
62. Prior to his April 3, 2023 interview with the bar investigator, Respondent received an email from the driver's insurance carrier regarding settlement, but he could not communicate with LP about it as she would not respond to him.

**BAR COMPLAINTS AND CONTINUED BREAKDOWN IN COMMUNICATIONS**

63. On November 18, 2022, LP filed a bar complaint alleging Respondent's failure to file the GRTC suit within the SOL.
64. On December 12, 2022, LP filed a second bar complaint alleging concerns about his handling of the Achievable Development suit.
65. On December 12, 2022, LP also filed another bar complaint alleging deficiencies in the suit Respondent filed against Lyft.
66. By December 8, 2022, as stated, LP stopped communicating with Respondent.

67. In his April 3, 2023 interview with the bar investigator, Respondent acknowledged that he had no excuse for missing the SOL. "It was a mistake on my part and I didn't discover it until after the statute had run."
68. Respondent stated he had not done well with his tickler system and if he had written the SOL on his calendar, this would not have happened. He stated that he usually files suit soon after being retained.
69. In late May 2023, Respondent moved to withdraw as counsel in both matters. An order granting Respondent's Motion to Withdraw in the Lyft matter was entered June 1, 2023 in the Circuit Court for the City of Richmond. Respondent's Motion to Withdraw in the Achievable Development matter is set for hearing on July 6, 2023 at 8:30 AM in the Chesterfield County Circuit Court.
70. In his interview with the bar investigator, Respondent accepted responsibility for his error in missing the SOL in the GRTC case, as he did with LP in October 2022. Respondent stated that LP is a good person and he should not have made the mistake. He further stated this has upset him more than anything in his practice of law. Respondent has no disciplinary history and devoted many years of his practice to legal aid.

## **II. NATURE OF MISCONDUCT**

Such conduct by Respondent constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

### **RULE 1.3 Diligence**

- (a) A lawyer shall act with reasonable diligence and promptness in representing a client.

### **RULE 1.7 Conflict of Interest: General Rule.**

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

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- (2) there is significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

### **RULE 1.16 Declining Or Terminating Representation**

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

(1) the representation will result in violation of the Rules of Professional Conduct or other law;

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### **III. PUBLIC REPRIMAND WITH TERMS**

Accordingly, having approved the agreed disposition, it is the decision of the Subcommittee to impose a Public Reprimand with Terms. The terms are:

#### **1. MCLE**

On or before January 2, 2024, Respondent will complete six (6) hours of continuing legal education credits by attending courses approved by the Virginia State Bar in the subject matter of personal injury litigation. Respondent's Continuing Legal Education attendance obligation set forth in this paragraph will not be applied toward his Mandatory Continuing Legal Education requirement in Virginia or any other jurisdictions in which Respondent may be licensed to practice law. Respondent will certify his compliance with the terms set forth in this paragraph by delivering a fully and properly executed Virginia MCLE Board Certification of Attendance form (Form 2) to Bar Counsel, promptly following his attendance of each such CLE program(s).

If any of the terms are not met by the time specified, pursuant to Part 6, § IV, ¶ 13-15.F and 13-15.G of the Rules of the Supreme Court of Virginia, the District Committee shall hold a hearing and Respondent shall be required to show cause why a Certification should not be imposed. Any proceeding initiated due to failure to comply with terms will be considered a new matter, and an administrative fee and costs will be assessed.

Pursuant to Part 6, § IV, ¶ 13-9.E. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs.

**THIRD DISTRICT SUBCOMMITTEE  
SECTION I OF THE VIRGINIA STATE BAR**

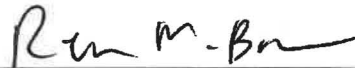


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Erin Lyn Torrey Ranney  
Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on July 6, 2023, a true and complete copy of the Subcommittee Determination (Public Reprimand With Terms) was sent by certified mail to Henry W. McLaughlin, III, Respondent, at The Law Office of Henry McLaughlin, P.C., 707 E. Main St., Ste. 1050, Richmond, VA 23219, Respondent's last address of record with the Virginia State Bar, and via email: [henry@mclaughlinvalaw.com](mailto:henry@mclaughlinvalaw.com); and by first class mail, postage prepaid to James Michael McCauley, counsel for Respondent, at 17 Bridgehampton Place, Richmond, VA 23229-7339 and via email: [j.mccauley53@gmail.com](mailto:j.mccauley53@gmail.com)



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Renu M. Brennan  
Bar Counsel