

VIRGINIA:

BEFORE THE FIRST DISTRICT COMMITTEE
OF THE VIRGINIA STATE BAR

IN THE MATTER OF
STEVEN M. OSER

VSB Docket No. 23-010-126950

DISTRICT COMMITTEE DETERMINATION
(PUBLIC REPRIMAND)

On September 11, 2023, a hearing in this matter was held before a duly convened First District Committee panel consisting of Ann W. Templeman, Lay Member; Jonathan V. Gallo, Member; Lisa M. Moore, Member; Gordon C. Ufkes, Member; and Jeannette M. Dodson-O'Connell, Chair Presiding (collectively, "the Committee").

Respondent Steven M. Oser ("Respondent") appeared in person with counsel, John T. Randall. Seth T. Shelley, Assistant Bar Counsel, appeared as counsel for the Virginia State Bar ("VSB"). The proceedings were transcribed by Stacy Gonzales of Biggs & Fleet Court Reporting, (757) 622-2049.

The Chair swore the court reporter and each member of the Committee verified that he or she had no personal or financial interest that may affect or be reasonably perceived to affect his or her ability to be impartial in this matter.

WHEREUPON a hearing was conducted upon the Charge of Misconduct issued against Respondent setting forth allegations that Respondent violated Virginia Rule of Professional Conduct 4.2.

The Committee received into evidence the VSB's exhibits 1-7 without objection. Respondent did not submit any exhibits.

The Committee imposed a rule on witnesses and began the misconduct phase of the proceeding.

The parties made opening statements. The Committee received into evidence the testimony of Laura Brooks and Complainant Amanda Belliveau during the VSB's presentation of evidence. The VSB then rested.

The Committee received into evidence the testimony of Respondent and Blue Casteen for Respondent during Respondent's presentation of evidence. Respondent then rested.

The Committee then heard closing arguments by counsel and retired to deliberate.

Findings of Fact

Upon due deliberation and consideration of the exhibits, witness testimony, and argument of counsel, the Committee found that the VSB proved by clear and convincing evidence the following facts:

1. Respondent was admitted to the VSB in April 1989. At all relevant times, Respondent was a member of the VSB.
2. Respondent represented Mr. Casteen in a workers' compensation matter. Complainant represented the defendant employer, Smithfield Foods.
3. On September 15, 2022, Respondent emailed Complainant. Complainant did not respond.
4. On September 16, 2022, Respondent called Complainant and left a voicemail, requesting to speak to her about Mr. Casteen's matter. Complainant did not return Respondent's call.
5. On the afternoon of September 16, 2022, Respondent called Ms. Brooks, Employment Manager with Smithfield. Respondent told Ms. Brooks that he called her because he could not get in touch with Complainant. Respondent told Ms. Brooks multiple times that she needed to call Complainant. Respondent then asked Ms. Brooks about a conversation she had with Mr. Casteen concerning Smithfield's position that Mr. Casteen's injury was not work related and that Mr. Casteen would be placed on medical temporary disability. Ms. Brooks stated that Respondent discussed the workers' compensation case and asserted the injury was "flat out not a personal injury." Respondent told Ms. Brooks he had a doctor's note. Ms. Brooks asked Respondent to provide it. Respondent asked her to send him an email requesting the note.

6. Later that afternoon, Ms. Brooks emailed Respondent and requested the doctor's note. Respondent emailed Ms. Brooks, provided a copy of the doctor's note, and asserted that he only contacted Ms. Brooks because he could not get in touch with Complainant. Respondent urged Ms. Brooks to contact Complainant.
7. Respondent did not have permission from Complainant to speak to her client prior to Respondent's call to Ms. Brooks. On September 17, 2022, after learning that Respondent had called Brooks, Complainant emailed Respondent and wrote, "you may not communicate with my clients."
8. Respondent admitted that he called Ms. Brooks and emailed her after the call. Respondent stated that he was aware of RPC 4.2 when he made the call to Ms. Brooks but felt he had a "legal justification," "professional duty," and "moral obligation" to do so. Respondent stated that his client was frantic and fearful that he would be terminated without pay and would not be able to pay his bills. Respondent stated he could not get in touch with Complainant to discuss this urgent matter and then called Ms. Brooks. Respondent asserted that his intention was to tell Ms. Brooks to "call your attorney" and discuss the matter.

Misconduct

Based on the foregoing facts, the Committee found that the VSB proved by clear and convincing evidence that Respondent violated the following Virginia Rule of Professional Conduct:

RULE 4.2 Communicating with Persons Represented by Counsel

In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized by law to do so.

Sanction

Having found that Respondent violated Virginia Rule of Professional Conduct 4.2, the Committee then convened the sanctions phase of the proceedings. The VSB introduced a Certification of Respondent's disciplinary record in Virginia as VSB Exhibit 8, which was received into evidence without objection. The VSB then rested. Respondent did not introduce any evidence.

Counsel for the VSB and Respondent then presented argument regarding the sanction to be imposed on Respondent for the misconduct found, and the Committee retired to deliberate.

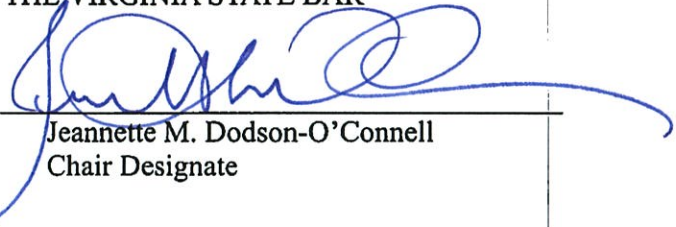
Public Reprimand

After due consideration of the evidence as to mitigation and aggravation and the arguments of counsel, the Committee reconvened to announce its sanction of a Public Reprimand without Terms, effective September 11, 2023.

Pursuant to Part Six, Section IV, Paragraph 13-9.E of the Rules of the Virginia Supreme Court, the Clerk of the Disciplinary System must assess costs.

FIRST DISTRICT COMMITTEE
OF THE VIRGINIA STATE BAR

By



Jeannette M. Dodson-O'Connell
Chair Designate

Seen:



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Seen and Agreed:



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