

**IN THE SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 2700 Disciplinary Docket No. 3
	:	
Petitioner	:	No. 174 DB 2019
	:	
v.	:	Attorney Registration No. 68761
	:	
DONALD L. VITTORELLI, JR.,	:	(Philadelphia)
	:	
Respondent	:	

**ORDER**

**PER CURIAM**

**AND NOW**, this 28<sup>th</sup> day of February, 2020, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board, the Joint Petition in Support of Discipline on Consent is granted, and Donald L. Vittorelli, Jr. is suspended on consent from the Bar of this Commonwealth for a period of eighteen months. Respondent shall comply with all the provisions of Pa.R.D.E. 217 and pay costs to the Disciplinary Board. See Pa.R.D.E. 208(g).

A True Copy Patricia Nicola  
As Of 02/28/2020

Attest:   
Chief Clerk  
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :  
Petitioner :  
: No. 174 DB 2019  
v. :  
: Atty. Reg. No. 68761  
DONALD L. VITTORELLI, JR., :  
Respondent : (Philadelphia)

**JOINT PETITION IN SUPPORT OF DISCIPLINE**  
**ON CONSENT UNDER Pa.R.D.E. 215(d)**

Petitioner, Office of Disciplinary Counsel ("ODC"), by Thomas J. Farrell, Chief Disciplinary Counsel, and Harriet R. Brumberg, Disciplinary Counsel, and Respondent, Donald L. Vittorelli, Esquire, file this Joint Petition In Support of Discipline on Consent under Pennsylvania Rule of Disciplinary Enforcement ("Pa.R.D.E.") 215(d), and respectfully represent that:

**I. PARTIES TO DISCIPLINE ON CONSENT**

1. Petitioner, whose principal office is located at PA Judicial Center, Suite 2700, 601 Commonwealth Avenue, P.O. Box 62485, Harrisburg, PA 17106-2485, is invested pursuant to Pa.R.D.E. 207, with the power and duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings.

**FILED**

**01/17/2020**

**The Disciplinary Board of the  
Supreme Court of Pennsylvania**

2. Respondent, Donald L. Vittorelli, Jr., was born in May 1968 and was admitted to practice law in the Commonwealth of Pennsylvania on November 18, 1993.

3. Attorney registration records state that Respondent maintains an office for the practice of law at 9637 Bustleton Avenue, Philadelphia, PA 19115.

4. Pursuant to Pa.R.D.E. 201(a)(1), Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

## **II. FACTUAL ADMISSIONS AND VIOLATIONS OF RULES OF PROFESSIONAL CONDUCT**

5. Respondent specifically admits to the truth of the factual allegations and conclusions of law contained in paragraphs 1 through 213 herein.

### **CHARGE I: JON CRAIG ROLAND MATTER**

6. On May 11, 2017, Jon Craig Roland (Roland) was held for court on charges of Driving Under the Influence (DUI), 1<sup>st</sup> Offense, and related crimes. ***Commonwealth v. Jon Craig Roland***, MJ-15301-CR-0000055-2017.

7. On June 14, 2017, John Edwin Daniel Larkin, Esquire, counsel for Roland, filed an Omnibus Pre-Trial Motion.

8. On September 27, 2017, Respondent received \$2,500 from Roland to represent him at the suppression hearing in his DUI matter.

9. Although Respondent had not previously represented Roland, Respondent failed to provide Roland with a written fee agreement that set forth the basis or rate of Respondent's fee.

10. Respondent failed to advise Roland that Respondent did not have professional liability insurance.

11. On October 3, 2017, Respondent entered his appearance to represent Roland on his DUI charges pending in the Court of Common Pleas of Chester County. ***Commonwealth v. Jon Craig Roland***, No. CP-15-CR-0001530-2017.

12. On November 17, 2017, a Motion to Suppress Hearing was held before the Honorable Phyllis R. Streitl.

a. Following the receipt of evidence, Judge Streitl denied the Motion to Suppress.

13. On November 20, 2017, Respondent received \$2,000 from Roland to represent Roland at his criminal trial before Judge Streitl.

14. On January 18, 2018, following a bench trial before Judge Streitl, Roland was found guilty of two counts of DUI.

15. On May 11, 2018, Judge Streitl sentenced Roland to ninety days to two years of confinement, a fine of \$1,500,

costs, a drug/alcohol evaluation, an ignition interlock, and the surrender of Roland's driver's license.

16. On May 16, 2018, Respondent received \$2,000 from Roland, of which \$1,500 was charged to Roland's credit card and \$500 was given to Respondent in cash, to represent Roland on direct appeal of his criminal conviction to the Superior Court.

17. On May 16, 2018, Respondent filed a:

- a. Notice of Appeal to the Superior Court, which was docketed at No. 1478 EDA 2018;
- b. Motion for Transcripts; and
- c. Motion to Stay Sentence and for Bail to Remain.

18. On May 17, 2018, Judge Streitl:

- a. granted the Motion to Stay Sentence pending appeal; and
- b. entered an Order directing defendant to file a Concise Statement of Errors Complained of on Appeal (Concise Statement) no later than 21 days after the entry of the Court's Order on the docket.
  - i. The Court's Order stated that "[s]uch statement shall be filed with the Clerk of Courts, with a copy served upon this judge and the opposing party."

19. On June 6, 2018, Respondent filed in Superior Court a Concise Statement of Matters Complained of on Appeal

challenging Judge Streitel's denial of the Motion to Suppress.

20. Although Respondent filed a Concise Statement with the Superior Court and sent a copy to Judge Streitel, Respondent failed to comply with Judge Streitel's March 17, 2018 Order and file the Concise Statement with the Clerk of Courts.

21. On June 26, 2018, Judge Streitel filed a Statement of the Court, in which Judge Streitel wrote:

- a. there is no evidence that Defendant has ordered or paid for the trial transcripts (*id.* at p. 1);
- b. explained that Pa.R.A.P. 1911 requires an appellant to request and make necessary payment for the transcripts within the time prescribed by Rule 5000.1 *et seq.* of the Pennsylvania Rules of Judicial Administration (*id.* at p. 2);
- c. Respondent's failure to comply with these rules resulted in the unavailability of the transcripts for the trial court and the Superior Court's review (*id.*); and
- d. since all of the issues raised on appeal require an examination of the transcripts to be resolved, Respondent had waived all issues by his failure to order and pay for the transcripts.

22. Judge Streitel attached to her Statement of the Court emails from the Chester County court stenographer's office stating that the transcripts from the suppression

hearing and non-jury trial in **Commonwealth v. Roland** had not been ordered.

23. Respondent received a copy of Judge Streitl's Statement of the Court with the attached emails.

24. Respondent failed to act with reasonable competence and diligence and confirm the transcript order with the Chester County court reporters and timely pay for the transcripts of the suppression hearing and trial.

25. Respondent failed to inform Roland of Judge Streitl's Statement of the Court so that he could make an informed decision regarding the representation, including making payment for the transcripts.

26. On July 5, 2018, Karen N. Templeton, Director, Pennsylvania Department of Transportation (PennDOT), Bureau of Driver Licensing, mailed to Roland an Official Notice of Suspension, therein advising Roland that:

- a. Roland's driver's license privilege was suspended for eighteen months, effective May 11, 2018;
- b. Roland had 30 days from July 5, 2018 to appeal PennDOT's suspension of his driver's license; and
- c. in order for Roland's appeal to be valid, Roland must send a time-stamped certified copy of the appeal by certified mail to PennDOT's Office of Chief Counsel.

27. On July 3, 2018, the Superior Court issued a briefing schedule for Roland's direct appeal of his criminal conviction.

28. On July 10, 2018:

- a. Roland retained Respondent to file an appeal of PennDOT's suspension of Roland's driver's license;
- b. Respondent charged \$500 to Roland's MasterCard account for the representation; and
- c. Roland wrote check number 2078, in the amount of \$183.75, made payable to "Donald Vittorelli," with the notation "filing fee," for Respondent's filing of the PennDOT appeal.

29. On July 16, 2018, Respondent deposited Roland's check into Respondent's bank account.

30. Respondent failed to:

- a. deposit Roland's check for legal expenses in a trust account to be drawn as expenses are incurred, as mandated by RPC 1.15(i);
- b. deposit Roland's check in an account separate from Respondent's own property, as mandated by RPC 1.15(b);
- c. list on Respondent's 2018-2019 Pa Attorney's Annual Fee Form all accounts where Respondent holds client funds; and
- d. maintain a business/operating account to be used by Respondent in the practice of law, as mandated by RPC 1.15(j).

31. To the extent that Respondent maintained a business/operating account, Respondent failed to list on his 2018-2019 Pa Attorney's Annual Fee Form every



business/operating account maintained or used by Respondent in the practice of law.

32. On July 30, 2018, Respondent electronically filed his 2018-2019 PA Attorney's Annual Fee Form (Fee Form).

33. Question 13 of the Fee Form asks that Respondent provide, from May 1, 2017 to the date of the filing of the Fee Form, the name of each financial institution, account number, and location for every account:

- a. within or outside Pennsylvania in which Respondent or Respondent's law firm held client or third-party funds subject to RPC 1.15;
- b. holding funds of a client or third party over which Respondent had sole or shared signature authority; and
- c. every business/operating account maintained or used by Respondent in the practice of law.

34. In answer to Question 13, Respondent checked the box marked "NONE/NOT APPLICABLE."

35. Respondent's answer to Question 13 was false in that on July 16, 2018, Respondent deposited Roland's \$183.75 check for the payment of his filing fee into a bank account in which Respondent or Respondent's law firm held client or third-party funds subject to RPC 1.15 or used in the practice of law.

36. On August 1, 2018, Respondent electronically filed a notice of appeal of PennDOT's suspension of Roland's

driver's license with the Chester County Prothonotary's Office.

37. Thereafter, Respondent failed to take any further action to pursue Roland's appeal of PennDOT's suspension of Roland's driver's license.

38. Respondent failed to send a time-stamped certified copy of the notice of appeal by certified mail to PennDOT's Office of Chief Counsel as required by the Official Notice of Suspension.

39. On August 9, 2018, Respondent filed his first Application for Extension of Time to File Appellant Brief (1<sup>st</sup> Application); in the 1<sup>st</sup> Application, Respondent wrote:

- a. on May 16, 2018, Respondent had hand-delivered a motion for transcripts to the Chester County Court of Common Pleas court reporters;
- b. on or about August 1, 2018, Respondent contacted the court reporters to obtain the status of the transcripts and "[a]t this time we were informed that they did not have our request and the reporter is out of the office on a prepaid vacation"; and
- c. requesting a "30 to 60 day extension of time" to file Respondent's brief for appellant.

40. After Respondent received Judge Streitl's June 24, 2018 Statement of the Court, Respondent failed to act with reasonable competence and diligence and ensure that the court reporters had Respondent's transcript order and timely pay for the transcripts from the suppression hearing and trial.

41. By *Per Curiam* Order dated August 10, 2018, the Superior Court granted the 1<sup>st</sup> Application and ordered that Roland's brief be filed on or before October 12, 2018.

42. On October 9, 2018, Respondent filed his second Application for extension of time to file Roland's appellate brief; in the second Application, Respondent wrote:

- a. on October 4, 2018, Respondent contacted the Chester County court reporters and was told the transcripts "were still not available"; and
- b. requesting "oa [sic] finale [sic] 30 to 60 day extension to file" Respondent's appellate brief.

43. By *Per Curiam* Order dated October 10, 2018, the Superior Court granted the second Application and ordered that Roland's brief be filed on or before November 12, 2018, and that no further extensions would be granted absent extraordinary circumstances.

44. On November 9, 2018, Respondent filed his third Application for extension of time to file brief; in the third Application, Respondent:

- a. reiterated that he had contacted the Chester County court reporters on October 4, 2018;
- b. stated that the notes still have not been provided;
- c. alleged that "[t]he notes from the motion to suppress are vital as they are the crux of our argument"; and

- d. requested "a finale [sic] 14 days [sic] extension to file". Respondent's appellate brief.

45. Respondent failed to act with reasonable competence and diligence when Respondent failed to contact the Chester County court reporters and advise them of the Superior Court's October 10, 2018 Order and make arrangements to promptly pay for the transcripts from the suppression hearing and trial.

46. On November 14, 2018, Respondent filed Appellant's Brief and the reproduced record sans transcripts.

47. Respondent failed to act with competence and diligence in filing Roland's appellate brief in that Respondent failed to:

- a. timely file the brief and complete reproduced record with the Superior Court; and
- b. attach the trial court's opinion to the brief.

48. By *Per Curiam* Order dated November 16, 2018, the Superior Court granted Respondent's third Application for extension of time and ordered that Respondent's brief for appellant, untimely filed on November 14, 2018, be considered timely filed.

49. From time to time, Roland would call Respondent's office and request information regarding the status of his PennDOT appeal and when he would receive his driver's license.

50. Respondent's legal assistant, "Steve," informed Roland that there would be a hearing on Roland's PennDOT appeal on November 26, 2018.

51. At 8:14 a.m. on November 26, 2018, Roland sent Respondent a text message inquiring where the hearing would be held.

52. In response to Roland's text inquiry, Steve called Roland and said:

- a. "it was taken care of" and the District Attorney and the DMV "had no objections";
- b. Roland did not need to attend the hearing; and
- c. Roland's license "would arrive soon."

53. Roland subsequently called PennDOT directly to learn the status of his PennDOT appeal.

54. PennDOT advised Roland that there was no record of any appeal of his driver's license suspension.

55. Respondent failed to act with competence and diligence and appeal Roland's license suspension to PennDOT as Respondent was retained to do.

56. Steve's statements to Roland that "everything was taken care of" and Roland's license "would arrive soon" were false in that Respondent had never filed an appeal with PennDOT.

57. Respondent failed to make reasonable efforts to ensure that the conduct of Respondent's nonlawyer personnel was compatible with the professional obligations of a lawyer.

58. Respondent failed to refund his unearned fee for the PennDOT appeal to Roland.

59. On November 27, 2018, the Commonwealth filed its brief for appellee in the Superior Court.

60. On January 2, 2019, the Superior Court scheduled Roland's appeal from his conviction for oral argument on February 13, 2019.

61. On January 11, 2019, the Commonwealth filed an Application to Cancel Argument and Quash Appeal (Commonwealth's Application); in the Commonwealth's Application, the Commonwealth:

- a. explained that an appellate brief must support its claims with pertinent references to the record (*id.* at ¶ 9);
- b. argued that the "mere filing of a Motion for Transcripts does not relieve Defendant of his responsibility of providing transcripts to this Court to review" (*id.* at ¶ 11);
- c. alleged that Respondent "should have followed-up with the appropriate agency(ies) to get the transcript of the November 17, 2017 [suppression] hearing" (*id.* at ¶ 13);
- d. asserted that Respondent "clearly became aware that the transcript was not completed as of June 2018," when Judge Streitel issued her Statement of the Court (*id.* at ¶ 14);

- e. noted that instead of filing appellant's brief, Respondent should have asked for a continuance to obtain the transcript, to which the Commonwealth would not have objected (*id.* at ¶ 16);
- f. stated that on November 27, 2018, the Commonwealth contacted the Chester County Reporters Department and confirmed that the suppression hearing was not transcribed (*id.* at ¶ 17); and
- g. requested that, due to the fact that the "sole issue is waived and the record does not permit [the Superior Court's] review," the scheduled oral argument be cancelled and appellant's appeal be quashed. (*Id.* at ¶ 20)

62. Respondent did not file an answer to the Commonwealth's Application to Cancel Argument and Quash Appeal.

63. By *Per Curiam* Order dated January 31, 2019, the Superior Court granted the Commonwealth's Application and quashed Roland's appeal.

64. Respondent's failure to provide the transcripts from the November 17, 2017 suppression hearing was conduct prejudicial to the administration of justice in that it needlessly expended the criminal justice system's limited time and resources and delayed the resolution of Roland's criminal matter.

65. Respondent failed to keep Roland advised of the status of his case and promptly advise Roland that on January 31, 2019, the Superior Court had struck his case from the

February 13, 2019 argument list and quashed his direct appeal to the Superior Court.

66. Respondent failed to refund Respondent's unearned fee to Roland at the termination of the representation.

67. At 10:38 a.m. on February 22, 2019, Roland sent Respondent a text message requesting an update on his criminal conviction appeal and his PennDOT hearing.

68. On or about February 22, 2019, Roland discovered that the Superior Court had quashed his criminal appeal and hand-delivered a \$538.69 check to Chester County court reporter Donna Shenkel as a deposit for an expedited copy of the transcript of his January 18, 2018 criminal trial.

69. On March 4, 2019, Roland paid the remaining \$200.01 balance and received the transcript of his January 18, 2018 trial.

70. On March 4, 2019, Roland filed a *pro se* application for relief in the Superior Court in his criminal conviction matter; in his application, Roland:

- a. explained that he hired Respondent to represent him on appeal and Respondent had not "fulfilled [Respondent's] obligations";
- b. requested "relief and to be appointed *pro se*";
- c. stated that he went to Chester County and paid the transcript fee as early as possible; and
- d. "asked to have Mr. Vittorelli disbarred."



71. By *Per Curiam* Order dated March 26, 2019, the Superior Court denied Roland's application "in light of the fact that the appellate briefs have been filed."

72. By his conduct as alleged in paragraphs 6 through 71 above, Respondent violated the following Rules of Professional Conduct and Rules of Disciplinary Enforcement:

- a. RPC 1.1, which states that a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation;
- b. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;
- c. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter;
- d. RPC 1.4(a)(4), which states that a lawyer shall promptly comply with reasonable requests for information;
- e. RPC 1.4(b), which states that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation;
- f. RPC 1.4(c), which states that a lawyer in private practice shall inform a new client in writing if the lawyer does not have professional liability insurance of at least \$100,000 per occurrence and \$300,000 in the aggregate per year, subject to commercially reasonable deductibles, retention or co-insurance, and shall inform existing clients in writing at any time the lawyer's professional liability insurance drops below either of those amounts or the lawyer's

professional liability insurance is terminated. A lawyer shall maintain a record of these disclosures for six years after the termination of the representation of a client;

- g. RPC 1.5(b), which states that when the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, in writing, before or within a reasonable time after commencing the representation;
- h. RPC 1.15(b), which states that upon receiving property of a client or third person in connection with a client-lawyer relationship, a lawyer shall promptly notify the client or third person. Except as stated in this Rule or otherwise permitted by law or by agreement with the client or third person, a lawyer shall promptly deliver to the client or third person any property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property;
- i. RPC 1.15(i), which states that a lawyer shall deposit into a Trust Account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred, unless the client gives informed consent, confirmed in writing, to the handling of fees and expenses in a different manner;
- j. RPC 1.15(j), which states that at all times while a lawyer holds Rule 1.15 Funds, the lawyer shall also maintain another account that is not used to hold such funds;
- k. RPC 1.16(d), which states that upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is

entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law;

- l. RPC 5.3(a), which states that with respect to a nonlawyer employed or retained by or associated with a lawyer, a partner and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer;
- m. RPC 5.3(b), which states that with respect to a nonlawyer employed or retained by or associated with a lawyer, a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer;
- n. RPC 8.4(c), which states that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- o. RPC 8.4(d), which states that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice;
- p. Pa.R.D.E. 203(b)(3), which states that wilful violation of any other provision of the Enforcement Rules, shall be grounds for discipline, via:
  - (1) Pa.R.D.E. 219(d)(1)(iii), which states that on or before July 1 of each year all attorneys required by this rule to pay an annual fee shall file with the Attorney Registration Office a signed or electronically endorsed form prescribed by the Attorney Registration Office in

accordance with the following procedures: The form shall set forth the name of each Financial Institution, as defined in Pa.R.P.C. 1.15(a)(4), within or outside this Commonwealth in which the attorney on May 1 of the current year or at any time during the preceding 12 months held funds of a client or a third person subject to Rule 1.15 of the Pennsylvania Rules of Professional Conduct. The form shall include the name and account number for each account in which the attorney held such funds, and each IOLTA Account shall be identified as such. The form provided to a person holding a Limited In-House Corporate Counsel License or a Foreign Legal Consultant License need not request the information required by this subparagraph;

- (2) Pa.R.D.E. 219(d)(1)(iv), which states that on or before July 1 of each year all attorneys required by this rule to pay an annual fee shall file with the Attorney Registration Office a signed or electronically endorsed form prescribed by the Attorney Registration Office in accordance with the following procedures: The form shall set forth every account not reported under subparagraph (iii), that held funds of a client or third party, and over which the attorney had sole or shared signature authority or authorization to transfer funds to or from the account, during the same time period specified in subparagraph (iii) ["on May 1 of the current year or at any time during the preceding 12 months"]. For each account, the attorney shall provide the name of the financial institution (whether or not the entity qualifies as a "Financial Institution" under Pa.R.P.C. 1.15(a)(4)), location, and account number; and

- (3) Pa.R.D.E. 219(d)(1)(v), which states that on or before July 1 of each year all attorneys required by this rule to pay an annual fee shall file with the Attorney Registration Office a signed or electronically endorsed form prescribed by the Attorney Registration Office in accordance with the following procedures: The form shall set forth every business operating account maintained or utilized by the attorney in the practice of law during the same time period specified in subparagraph (iii) ["on May 1 of the current year or at any time during the preceding 12 months"]. For each account, the attorney shall provide the name of the financial institution, location and account number.

**CHARGE II: JACQUELINE N. DiNARDI MATTER**

73. By letter dated February 12, 2018, PennDOT sent Jacqueline N. DiNardi (DiNardi) an Official Notice of Suspension of her driving privileges pursuant to 75 Pa.C.S.A. § 1519(c), for DiNardi's failure to take a medical examination and/or successfully pass a driver's test; the Notice:

- a. explained that DiNardi had the right to appeal PennDOT's decision to the Court of Common Pleas within thirty days; and
- b. stated that the effective date of suspension would be March 19, 2018.

74. By letter dated February 16, 2018, PennDOT sent DiNardi official Notice of Recall of her driving privilege as authorized by Section 1519(c); the Notice stated:

- a. PennDOT had "received medical information indicating [DiNardi had] a General Medical

condition, which prevents [her] from safely operating a motor vehicle";

- b. as of February 23, 2018, DiNardi may no longer drive; and
- c. DiNardi's license suspension will remain in effect until PennDOT receives medical information showing that DiNardi's condition has improved and DiNardi is capable of safely operating a motor vehicle.

75. On or before February 21, 2018, DiNardi retained Respondent to appeal PennDOT's decision to suspend her driver's license and made payment of \$525 to Respondent.

76. Respondent failed to provide DiNardi with a written fee agreement that set forth the basis or rate of Respondent's fee.

77. Respondent failed to advise DiNardi that Respondent does not have professional liability insurance.

78. By emails dated February 21, 2018, DiNardi sent Respondent forms that had been completed by her medical providers to submit to PennDOT for the reinstatement of her driver's license.

79. On February 22, 2018, Respondent filed a Notice of Appeal of PennDOT's decision to the Court of Common Pleas of Philadelphia County. **DiNardi v. PennDOT**, No. 02361, February Term, 2018.

80. DiNardi's appeal was scheduled for trial at 8:30 a.m. on May 4, 2018.

- a. Prior to May 4, 2018, Respondent had not met with DiNardi and had spoken with her on one occasion, February 21, 2018.

81. Respondent appeared in court with DiNardi on May 4, 2018, during which time Respondent:

- a. failed to submit the requisite medical forms to PennDOT for the reinstatement of DiNardi's driver's license;
- b. agreed to submit the requisite medical forms to PennDOT; and
- c. advised DiNardi that she could continue to drive while her driver's license suspension matter was on appeal.

82. Respondent failed to act with competence and reasonable diligence in handling DiNardi's driver's license reinstatement and submit the requisite medical forms to PennDOT before or at DiNardi's hearing.

83. Respondent failed to act with competence and reasonable diligence in handling DiNardi's driver's license reinstatement and promptly submit the requisite medical forms to PennDOT after DiNardi's May 4, 2018 hearing.

84. DiNardi's appeal was rescheduled for trial on June 22, 2018, then rescheduled again for trial on September 28, 2018, so that Respondent could submit the requisite medical forms to PennDOT.

85. On July 14, 2018, DiNardi was stopped in Montgomery County by a Pennsylvania State Trooper and given a ticket

citation for driving on a suspended license and speeding. Citation Number T7681305-2.

86. On July 18, 2018, the Honorable Paul N. Leo, Magistrate District Judge, Montgomery County, scheduled trial on DiNardi's citation matter for 1:15 p.m. on September 26, 2018. ***Commonwealth v. Jacqueline N. DiNardi***, MJ 388114-TR-0002068,-69 (2018).

87. On July 20, 2018, DiNardi called Respondent's law office, during which time:

- a. DiNardi spoke to Respondent's paralegal Steve about her receipt of the traffic citation; and
- b. Steve advised DiNardi that he would contact PennDOT and "clear up this matter" so that when DiNardi went to court, she would have an answer.

88. On July 20, 2018, DiNardi sent Respondent an email requesting a copy of documents from her last trial because:

- a. Respondent had taken DiNardi's copy of her documents; and
- b. DiNardi could not obtain them from her broken computer.

89. Respondent failed to respond to DiNardi's request and provide her with copies of her documents.

90. By email dated July 26, 2018, DiNardi sent Respondent a copy of her Montgomery County traffic citation.

91. On July 27, 2018, DiNardi called Respondent's office and spoke to Steve about her Montgomery County traffic



citation matter, during which time Steve informed DiNardi that:

- a. PennDOT would not speak with lawyers; and
- b. DiNardi should appear in court and show the judge her paperwork, and this should be all that is "need[ed] to be found Not Guilty."

92. On September 26, 2018, DiNardi appeared before Judge Leo on her traffic citation matter, during which time:

- a. Judge Leo advised DiNardi that it did not sound as if Respondent followed the proper procedures in DiNardi's driver's license suspension matter;
- b. advised DiNardi to file a complaint against Respondent with the Pennsylvania Bar Association; and
- c. called Respondent's office and left a message for Respondent regarding Respondent's handling of DiNardi's legal matter.

93. Later in the day of September 26, 2018, Judge Leo called DiNardi, advised her that Respondent had returned the judge's telephone call, and informed her that DiNardi's driver's license appeal in Philadelphia County was scheduled for September 28, 2018.

94. Respondent had failed to remind DiNardi that her appeal matter was scheduled for trial in Philadelphia County on September 28, 2018, and provide her with the courtroom number.

95. On September 27, 2018, DiNardi called Respondent's office and spoke to Steve about her upcoming court date, during which time Steve was discourteous and failed to answer DiNardi's reasonable requests for information.

96. As an attorney with direct supervisory authority over Steve, Respondent failed to make reasonable efforts to ensure that Steve's conduct was compatible with the professional obligations of a lawyer.

97. Upon DiNardi's arrival in court on September 28, 2018, DiNardi was informed that her matter was continued until January 4, 2019.

98. On October 25, 2018, DiNardi called PennDOT directly and faxed them her medical forms.

99. By letter dated October 26, 2018, PennDOT advised DiNardi that her driver's license was restored effective October 26, 2018.

100. On December 18, 2018, DiNardi appeared *pro se* before Judge Leo in Magisterial District Court, during which time:

- a. DiNardi pleaded guilty to exceeding the speed limit and failure to obey traffic control devices; and
- b. Judge Leo dismissed charges of driving without a license.

101. Respondent failed to act with competence and diligence and ascertain that DiNardi's license had been reinstated.

102. To the extent that Respondent was aware that DiNardi's license was reinstated, Respondent failed to explain to DiNardi how the reinstatement impacted her Philadelphia County appellate matter so that DiNardi could make an informed decision regarding the representation.

103. As of December 26, 2018, Respondent had failed to contact DiNardi about her driver's license appeal, which was scheduled for a hearing in Philadelphia County on January 4, 2019.

104. During the course of Respondent's representation of DiNardi:

- a. DiNardi called Respondent's office approximately 20 times, of which Respondent failed to return any of DiNardi's telephone calls and Steve returned three of the telephone calls;
- b. DiNardi sent Respondent four emails, to which Respondent failed to respond;
- c. Respondent failed to keep DiNardi informed about the status of her case;
- d. Respondent failed to respond to DiNardi's reasonable requests for information; and
- e. Respondent failed to explain matters to DiNardi to the extent necessary for her to make an informed decision regarding the representation.

105. Respondent failed to advise DiNardi that the Court of Common Pleas had dismissed her driver's license appeal on January 11, 2019.

106. By his conduct as alleged in paragraphs 73 through 105 above, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.1, which states that a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation;
- b. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;
- c. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter;
- d. RPC 1.4(a)(4), which states that a lawyer shall promptly comply with reasonable requests for information;
- e. RPC 1.4(b), which states that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation;
- f. RPC 1.4(c), which states that a lawyer in private practice shall inform a new client in writing if the lawyer does not have professional liability insurance of at least \$100,000 per occurrence and \$300,000 in the aggregate per year, subject to commercially reasonable deductibles, retention or co-insurance, and shall inform existing clients in writing at any time the lawyer's professional liability insurance drops below either of those amounts or the lawyer's

professional liability insurance is terminated. A lawyer shall maintain a record of these disclosures for six years after the termination of the representation of a client;

- g. RPC 1.5(b), which states that when the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, in writing, before or within a reasonable time after commencing the representation;
- h. RPC 5.3(a), which states that with respect to a nonlawyer employed or retained by or associated with a lawyer, a partner and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer;
- i. RPC 5.3(b), which states that with respect to a nonlawyer employed or retained by or associated with a lawyer, a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and
- j. RPC 8.4(d), which states that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

**CHARGE III: MICHAEL A. GRAHAM, JR. MATTER**

107. On April 4, 2017, Michael A. Graham, Jr. (Graham), was issued six motor vehicle-related citations in Philadelphia County. ***Commonwealth v. Michael Graham***, Citation # LL 0481-574, 585, 596, 600, 611, and 622.

108. Graham, who lives in Oklahoma City, Oklahoma, failed to either challenge the citations or pay the fines for the citations.

109. As a result, PennDOT suspended Graham's driver's license.

110. On June 4, 2018, Graham called Respondent's office and spoke to Steve about Graham having his driver's license reinstated, during which time:

- a. Steve advised Graham that Respondent's legal fee would be \$750 for handling a *nunc pro tunc* appeal of the citations and contacting PennDOT to reinstate Graham's license;
- b. Steve agreed that Respondent's fee could be paid in two installments, \$375 at the time the fee agreement was signed, and \$375 at the time the case was completed;
- c. Graham agreed to retain Respondent's legal services, signed Respondent's fee agreement, and emailed the fee agreement to Steve; and
- d. Graham made payment to Respondent of \$375 from his VISA credit card account.

111. Respondent's fee agreement failed to state that Respondent did not have professional liability insurance.

112. At no time did Steve advise Graham that Respondent's legal fee must be paid in full before Respondent would complete Graham's legal matter.

113. On July 9, 2018, Respondent filed a Petition Seeking Permission to Appeal Nunc Pro Tunc to the Court of

Common Pleas of Philadelphia County; the case was docketed at CP-51-MD-0004724-2018.

- a. The Court scheduled a hearing on the Petition for August 3, 2018.

114. Respondent failed to provide Graham with a copy of the Petition after it was filed.

115. By email dated July 19, 2018, Steve sent Graham a Power of Attorney that authorized Respondent to appear, negotiate, and enter a plea on his behalf in his motor vehicle citation matter; by email dated July 21, 2018, Graham sent Steve a signed Power of Attorney and asked Steve whether anything else was needed.

116. On August 3, 2018, Respondent entered his appearance on behalf of Graham before the Honorable Thomas F. Gehert, during which time Judge Gehert entered an order granting the Petition for Leave to Appeal Nunc Pro Tunc.

- a. Respondent failed to keep Graham informed about the status of his case and promptly tell him the Petition had been granted.

117. On August 3, 7, 9, and 13, 2018, Graham called Respondent's office requesting information about his case.

- a. Respondent failed to promptly return Graham's telephone calls and answer his reasonable requests for information.

118. By email to Graham dated August 16, 2018, Respondent:

- a. instructed Graham to call Steve to discuss Graham's case; and
- b. stated that he was trying to work it out so Graham would not have to fly to Philadelphia.

119. By email to Respondent dated August 17, 2018, Graham agreed to call Respondent's office and speak to Steve.

120. By email to Graham dated August 17, 2018, Respondent wrote:

- a. three weeks ago, the court granted Graham permission to appeal and Graham had only 30 days remaining to proceed;
- b. Graham must pay the balance of Respondent's legal fee and the filing fee or Graham would have to start the process all over again; and
- c. Graham should try to contact Steve the following day (Friday, August 17) or Monday (August 20).

121. Graham received Respondent's email.

122. On Friday, August 17, 2018, Graham called Respondent's office on two occasions and left messages for Steve to return his telephone calls.

- a. Steve failed to return Graham's telephone calls.

123. On Monday, August 20, 2018, Graham called Respondent's office four times and left messages each time for Steve to call him.

- a. Steve failed to return any of Graham's telephone calls.



124. Thereafter, on August 20, 2018, Graham sent an email to Respondent stating:

- a. the lack of communication from Respondent's office "is becoming a major issue" for him;
- b. there was an issue about Respondent informing him when his court date would be and Graham has "yet to receive specific details of the court appearance on August 3";
- c. Steve agreed to call him with the results of the August 3 hearing, but has failed to do so;
- d. he had been trying to contact Respondent's office since August 3 and did not receive any response until August 16, 2018;
- e. that during Respondent's last conversation with Steve, Graham stated that he would pay the balance of Respondent's legal fee upon the completion of the case and Steve never informed Graham that the balance must be paid in full for Respondent to complete Graham's case; and
- f. he would call Respondent's office to resolve the outstanding issues.

125. By email to Respondent dated August 22, 2018, Graham:

- a. advised that he had called Respondent's office numerous times and left messages requesting a status update on his legal matter;
- b. stated he had called the "appeals department" and been informed that the \$35 filing fee to schedule his appeal date had not been paid;
- c. said he did not understand "why the filing never [took] place and why is there a refusal to return any of [his] phone calls and inform him of the status of his case";

- d. explained he wanted to "get this matter resolved at [sic] quickly as possible and would like to know if anything on [his] part needs to me [sic] done";
- e. requested that Respondent or Steve call or email him about his case either that night or the next day; and
- f. added that he "would hate to have to file a state bar complaint against Respondent's office and request a refund."

126. On August 23, and 30, 2018, Graham called Respondent's office, at which time no one answered and Graham left a message requesting a return telephone call.

127. Respondent failed to keep Graham informed about the status of his matter.

128. Respondent failed to respond to Graham's reasonable requests for information.

129. To the extent that Steve was responsible for returning Graham's telephone calls and responding to Graham's reasonable requests for information, Respondent, as Steve's direct supervisor, failed to make reasonable efforts to ensure that Steve's conduct was compatible with the professional obligations of a lawyer.

130. On September 4, 2018, Graham received an email and text message from Respondent stating that September 5 was the last day Respondent could file the second part of the appeal

and asking Graham to contact Respondent's office to make final payment of Respondent's legal fees and pay filing fees.

131. In response, on September 4, 2018, Graham called Respondent's office and spoke to Steve, at which time Steve:

- a. informed Graham to disregard Respondent's email and text message as Respondent had confused Graham with another client;
- b. reassured Graham that "everything was OK" and his court case was scheduled for 10:00 a.m. on September 7;
- c. agreed to call Graham when everything was complete and send Graham an email summary so that Graham would know to make final payment; and
- d. explained that Graham would receive a letter from Harrisburg stating that his license would be restored, Graham could use the letter to get a license in Oklahoma, and Respondent would be requesting that the letter be expedited.

132. Steve's statement that Graham's hearing was scheduled for September 7, 2018, was knowingly false in that there was no hearing scheduled in Graham's appellate matter.

133. Steve failed to call and email Graham as he had agreed to do.

134. As a lawyer having direct supervisory authority over a non-lawyer employee at Respondent's law firm, Respondent failed to ensure that Steve's conduct was compatible with the professional obligations of the lawyer.

135. Graham called Respondent's office, left a voice mail requesting information about the status of his case, and failed to receive a return telephone call on:

- a. September 21, 2018;
- b. October 1, 2, 4, and 8, 2018;
- c. October 9, 2018, three times;
- d. October 11, 2018;
- e. October 15, 2018, two times; and
- f. October 16, 2018, five times.

136. Respondent repeatedly failed to comply with Graham's reasonable requests for information.

137. At 10:05 a.m. Central Time on October 18, 2018, Graham left a message on Respondent's voice mail, wherein Graham:

- a. explained that he had contacted PennDOT about the status of his driver's license and been advised that his license was still inactive;
- b. accused Steve of lying to him for months about the status of his case;
- c. complained that he had not received return telephone calls from Respondent's office; and
- d. stated that he had not received any documentation regarding what Respondent had done in his case and the court's ruling.

138. At 10:21 a.m. Central Time, Respondent returned Graham's telephone call, during which time:

- a. Respondent explained that nothing had been done on his case since August 3, 2018, because Graham had not paid the remaining balance of his legal fee and the filing fee;
- b. Graham stated that he had been contacting Respondent's office, requesting information about the status of his case, and had either received wrong information from Steve or no answers to his requests for information;
- c. Respondent offered to waive the filing fee and complete the remaining portion of Graham's legal work for \$300;
- d. Graham requested a refund of Respondent's legal fee because he had not seen any information or documentation that Respondent had completed any legal work; and
- e. Respondent agreed to send Graham documentation of the legal work Respondent had completed.

139. To the extent that Respondent needed payment in full before Respondent completed Graham's driver's license case, Respondent failed to explain that Steve's statement to the contrary was incorrect so that Graham could make an informed decision regarding the representation.

140. At 5:23 p.m. on October 18, 2018, Respondent sent Graham documents showing that Respondent had filed a Petition to Appeal Nunc Pro Tunc.

141. By his conduct as alleged in paragraphs 107 through 140 above, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter;
- b. RPC 1.4(a)(4), which states that a lawyer shall promptly comply with reasonable requests for information;
- c. RPC 1.4(b), which states that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation;
- d. RPC 1.4(c), which states that a lawyer in private practice shall inform a new client in writing if the lawyer does not have professional liability insurance of at least \$100,000 per occurrence and \$300,000 in the aggregate per year, subject to commercially reasonable deductibles, retention or co-insurance, and shall inform existing clients in writing at any time the lawyer's professional liability insurance drops below either of those amounts or the lawyer's professional liability insurance is terminated. A lawyer shall maintain a record of these disclosures for six years after the termination of the representation of a client;
- e. RPC 5.3(a), which states that with respect to a nonlawyer employed or retained by or associated with a lawyer, a partner and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer;
- f. RPC 5.3(b), which states that with respect to a nonlawyer employed or retained by or associated with a lawyer, a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is RPC 8.4(a);

- g. RPC 8.4(a), which states that it is professional misconduct for a lawyer to violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another; and
- h. RPC 8.4(c), which states that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

**CHARGE IV: ERNESTO L. RAMOS MATTER**

142. On October 21, 1996, Ernesto L. Ramos (Ramos) was in an automobile accident.

143. In late 1996 or early 1997, Ramos and his wife, Ivette Valentin Ramos, moved to Florida.

144. On June 24, 1997, Liberty Mutual Insurance Company filed a civil complaint in the Court of Common Pleas of Philadelphia County against Ramos seeking subrogation in the automobile accident matter. ***Liberty Mutual Insurance Co. v. Ernest Ramos and Edwin Ramos***, No. 2822, June Term, 1997.

145. Liberty Mutual purportedly made service of process on Ramos and filed an Affidavit of Service on July 2, 1997.

146. On September 2, 1997, a default judgment was entered against Ramos for not filing an answer to the complaint.

- a. Damages in the amount of \$11,726.52 were assessed against Ramos.

147. As a result of Ramos not satisfying the motor vehicle accident judgment within 60 days, Liberty Mutual forwarded a certified copy of the judgment to PennDOT pursuant to 75 Pa.C.S.A. § 1771.

148. Upon PennDOT's receipt of the certified copy of the judgment, PennDOT suspended Ramos's driver's license pursuant to 75 Pa.C.S.A. § 1772.

- a. Pursuant to 75 Pa.C.S.A. § 1773, Ramos's driving privileges would be suspended until Ramos provided proof to PennDOT that the judgment was satisfied or that Ramos had an agreement with the judgment creditor to make payment on the judgment.

149. In 2014, Ramos attempted to obtain a driver's license in Florida, and was advised that because he had an outstanding judgment entered against him in Pennsylvania, Ramos could not get a license in Florida.

150. On February 13, 2015:

- a. Mrs. Ramos called Respondent's office and spoke to Steve about Ramos retaining Respondent to have his driver's license privileges restored;
- b. Steve said that Respondent would first need to investigate the matter and Respondent's investigation fee was \$250;
- c. Ramos retained Respondent's office to investigate and paid Respondent's \$250 investigation fee; and
- d. Ramos faxed Respondent all the information that he had regarding Liberty Mutual's lawsuit and judgment.



151. On February 18, 2015, Steve spoke to Mrs. Ramos, during which time:

- a. Steve explained that Ramos had the option of paying Respondent \$750 to negotiate a payment plan with Liberty Mutual or paying \$1,500 to get the case dismissed;
- b. Steve "assured" Mrs. Ramos that because the case was several years old and Liberty Mutual had not "worked the file" within five years, "then the case was void and should be dismissed";
- c. Ramos chose to pay Respondent \$1,500 to have the case dismissed; and
- d. Ramos paid \$500 toward Respondent's legal fee.

152. Respondent failed to provide Ramos with a written fee agreement that set forth the basis or rate of Respondent's fee.

153. Respondent failed to advise Ramos that Respondent does not have professional liability insurance.

154. On March 3, 2015, Ramos paid Respondent \$300; on March 16, 2015, Ramos paid Respondent \$200; and on March 16, 2015, Ramos paid Respondent \$200.

155. From time to time from March 2015 to May 2015, Mrs. Ramos called Respondent's law office requesting information regarding the status of her husband's case.

156. Respondent failed to return Mrs. Ramos's telephone calls and answer her and Ramos's reasonable requests for information.

157. In May 2015, Mrs. Ramos spoke to Steve about Ramos's outstanding legal matter, during which time:

- a. Steve advised that Ramos would "need to fight the case because" Liberty Mutual maintains that Ramos was served with the complaint and had knowledge of the case;
- b. Mrs. Ramos denied that her husband was served, stated that he was in Florida, and provided Steve with Ramos's W-2 forms to prove that he was in Florida;
- c. Steve replied that Ramos's defense would be that he was never served and the case should be dismissed; and
- d. Steve informed Mrs. Ramos that a hearing on Ramos's case was scheduled for August 7, 2015.

158. Steve's statement to Mrs. Ramos that a hearing was scheduled for August 7, 2015, was knowingly false in that there were no hearings scheduled in Ramos's legal matter.

159. As an attorney having direct responsibility over Steve, Respondent failed to make reasonable efforts to ensure that Steve's conduct was compatible with the professional obligations of an attorney.

160. From time to time in August and September 2015, Ramos and his wife called Respondent's office to learn the results of the purported August 7, 2015 hearing.

- a. Respondent failed to return Ramos and his wife's telephone calls and answer Ramos's reasonable requests for information.

161. In or around September 2015, Mrs. Ramos spoke to Steve, during which time Steve informed her that Respondent was "fighting the judgment," the case was not dismissed, and "an appeal needed to be done."

162. From time to time in October and November 2015, Ramos and his wife called Respondent's office for information on the status of Ramos's legal matter.

163. Respondent failed to return Ramos and his wife's telephone calls and provide them with the requested information.

164. In December 2015, Mrs. Ramos spoke to Steve about the status of Ramos's driver's license matter, during which time Steve said that "because its 'the Holidays' he has not heard anything from the opposing" attorneys.

165. From time to time from January through March 2016, Ramos and his wife would call Respondent's office requesting information about the status of his driver's license case, during which time Steve reiterated that due to "the Holidays" he had not heard anything from opposing counsel.

166. In or around March 2016, Steve advised Mrs. Ramos that "the appeal was set for April 1<sup>st</sup> of 2016."

167. In mid-April, Mrs. Ramos spoke to Steve, during which time Steve informed her that:

- a. "we 'Won' the appeal" and a letter was to be sent to PennDOT advising PennDOT of the dismissal of the judgment;
- b. Respondent had "done all [Respondent] needed to do";
- c. Ramos must now follow-up with PennDOT; and
- d. it may take a few weeks for PennDOT to receive the information from Harrisburg.

168. Steve's statement to Mrs. Ramos that Respondent had won the appeal was knowingly false in that Respondent had never filed an appeal to remove the judgment against Ramos.

169. In May 2016, Ramos contacted PennDOT about the reinstatement of his driver's license.

170. By letter from PennDOT to Ramos dated May 18, 2016, PennDOT stated, in pertinent part, that:

- a. Ramos must provide PennDOT with either an official document from the Philadelphia prothonotary indicating that the judgment has been satisfied or a letter agreement from the judgment creditor that payments will be made on a regular basis; and
- b. pay a \$70 restoration fee.

171. On May 31, 2016, Ramos sent a facsimile transmitted letter to Respondent's office requesting proof of resolution of the judgment against him.

172. Respondent received Ramos's letter.

173. Respondent failed to respond to Ramos's reasonable request for information.

174. In July 2016, Mrs. Ramos spoke to Steve, during which time Steve stated:

- a. Ramos should fax him a notarized letter giving him authority to request information from PennDOT;
- b. he had a contact at a Harrisburg office that should help; and
- c. PennDOT should now have the information that the judgment was dismissed.

175. By letter to PennDOT dated July 13, 2016, Ramos wrote that:

- a. PennDOT's records showing an indefinite suspension of his driver's license are inaccurate as Ramos hired Respondent to represent him and Respondent's paralegal Steve informed Ramos that his case was "dismissed in April 2016 as a result of our appeal";
- b. he has given Respondent authority to research this matter further on Ramos's behalf; and
- c. enclosed a \$70 money order made payable to PennDOT for the restoration of his driver's license.

176. On July 13, 2016, Mrs. Ramos sent Steve, via facsimile transmission, a copy of Ramos's letter to PennDOT and a notarized authorization for Respondent to obtain Ramos's records from PennDOT.

177. Respondent received Mrs. Ramos's facsimile transmission.

178. Respondent failed to act with reasonable diligence to resolve Ramos's driver's suspension matter.

179. Subsequently, Mrs. Ramos:

- a. spoke to PennDOT and was told PennDOT never received documentation of the dismissal of Ramos's judgment and advised Mrs. Ramos to call the Philadelphia prothonotary's office; and
- b. spoke to Jay Borowski at the Philadelphia prothonotary's office and was informed that there were no appeals or "new case files" concerning Liberty Mutual's outstanding judgment against Ramos.

180. On August 22, 2016:

- a. Mrs. Ramos spoke to Steve about her conversation with the Philadelphia prothonotary, during which Steve told her that Ramos's case had a different name and docket number than the 1997 case because it was "new";
- b. Mrs. Ramos requested a copy of her husband's case file; and
- c. Steve agreed to send a copy of Ramos's case file within one-half hour after Steve concluded their conversation.

181. Steve's statement to Mrs. Ramos was knowingly false in that there was no "new" court matter and Respondent had failed to file any pleadings to dismiss Liberty Mutual's judgment against Ramos.

182. By facsimile transmitted letter to Steve dated August 22, 2016, Ramos requested a complete copy of his legal

documents from February 13, 2015 [date Respondent was retained] to August 22, 2016.

183. Steve failed to send Ramos a copy of his legal documents as Steve had agreed to do and as Ramos requested in his August 22, 2016 letter.

184. As an attorney having direct supervisory responsibility over Steve, Respondent failed to ensure that Steve's conduct was compatible with the professional obligations of an attorney.

185. By letter to Ramos dated September 8, 2016, PennDOT advised Ramos that Liberty Mutual's 1997 judgment was still outstanding.

186. By letter dated September 21, 2016, from Respondent to Ms. Andrea DiGiovanni, Liberty Mutual, Legal Office Manager, Respondent:

- a. stated that he was retained to represent Ramos in removing a September 2, 1997 judgment from his driving record;
- b. explained that the Philadelphia prothonotary's office has no information about the case;
- c. advised that Respondent was trying to find as much information as possible so that Respondent could clear this matter up for Ramos; and
- d. attached the civil dockets.

187. Following Ramos's numerous unsuccessful attempts to speak with Respondent about his legal matter, Ramos and his wife booked a flight from Orlando to Philadelphia.

188. On October 7, 2016, Mr. and Mrs. Ramos went to Respondent's office, Respondent was not there, and the Ramoses met with Steve, during which time Steve:

- a. advised Mr. and Mrs. Ramos that he had spoken to Andrea at Liberty Mutual and Andrea told Steve that her boss, Bernadette, was going to write a letter stating that Ramos's case was old and will be dismissed;
- b. explained that Liberty Mutual's letter would then be sent to Harrisburg and PennDOT; and
- c. gave Ramos a copy of the September 21, 2016 letter Respondent had sent to Liberty Mutual requesting the dismissal of Ramos's judgment.

189. On or before October 13, 2016, Steve called Liberty Mutual and left a message with Ms. DiGiovanni, regarding Liberty Mutual's outstanding judgment against Ramos.

190. By email to Steve dated October 13, 2016, Andrea confirmed receipt of Steve's voicemail message and wrote that Steve should call Liberty Mutual's subrogation attorney, Rhonda Harris, Esquire, "to discuss how to make arrangements to satisfy [Ramos's] outstanding judgment which [sic] is reflected on the docket."



191. Respondent failed to contact Ramos and inform him of Liberty Mutual's request for Respondent to make arrangements with Ramos to satisfy the judgment.

192. Upon Mr. and Mrs. Ramos's return to Florida, Mrs. Ramos spoke to Andrea, who advised her that no arrangements had been made with Steve and that Liberty Mutual would not write a letter stating that the case was dismissed.

193. From mid-October until December 29, 2016, Mrs. Ramos called Respondent's office every day requesting that Respondent call her about Ramos's outstanding judgment and driver's license matter.

- a. Respondent failed to return Mrs. Ramos's telephone calls and answer her reasonable requests for information.

194. On December 29, 2016, Mrs. Ramos called Respondent's office and spoke to Steve, during which time:

- a. Steve stated that he was "waiting on Andrea from Liberty Mutual to write a letter of clearance";
- b. Mrs. Ramos explained that she had spoken to Andrea and been told Andrea had no information about Liberty Mutual closing its case;
- c. Steve claimed that this "was not the case and that he had emails that stated otherwise"; and
- d. Steve agreed to send Ramos the emails.

195. At 2:47 p.m. on December 29, 2016, Respondent sent Ramos the October 13, 2016 email Steve had previously received

from Ms. DiGiovanni explaining that Steve should contact Liberty Mutual's subrogation attorney to make arrangements to satisfy the outstanding judgment on the docket.

196. Steve's statement to Mrs. Ramos that he was waiting on Ms. DiGiovanni from Liberty Mutual to write a letter of clearance was false and misleading in that Ms. DiGiovanni's October 13, 2016 email specifically advised Steve to contact Liberty Mutual's subrogation attorney to make arrangements to satisfy the outstanding judgment.

197. On January 4, 2017, ODC received a Statement of Complaint from Ramos about Respondent's mishandling of Ramos's driver's license matter.

198. By letter dated January 9, 2017, ODC requested that Respondent write to Ramos, advise Ramos of the status of his case, and send ODC a copy of Respondent's letter.

199. By letter dated January 20, 2017, Respondent wrote to Ramos, and:

- a. apologized for the delay in resolving Ramos's matter;
- b. claimed that Respondent's office was in "regular contact" with Mrs. Ramos about the status of the outstanding judgment;
- c. alleged that Respondent drafted a Motion to Strike the Judgment in June 2015, but the prothonotary purportedly informed him that "there was no record" of the judgment and PennDOT informed him that they required

documentation "clearing [Ramos] from the actual lien holder";

- d. stated that Respondent had contacted Liberty Mutual's subrogation attorney and "it was [Respondent's] understanding that she was willing to forward the information to PennDOT that the file no longer existed, which would have lifted the lien on [Ramos's] license;
- e. explained that in the fall of 2016, Ms. DiGianvanni informed him that "she would not send this information to PennDOT and the only way to resolve this matter was with payment";
- f. offered to file the Motion to Strike, but was concerned that Liberty Mutual would oppose it;
- g. advised Ramos to contact him if he had any questions or concerns; and
- h. attached a Motion to Strike/Satisfy Unrevived Judgment that Respondent had purportedly drafted on June 2, 2015.

200. Thereafter, Respondent failed to have any further communication with Ramos to resolve his driver's license restoration matter.

201. Respondent failed to handle Ramos's driver's license restoration matter with reasonable diligence.

202. Respondent failed to keep Ramos informed of the status of his case.

203. Respondent failed to explain matters to Ramos to the extent necessary so that he could make informed decisions regarding the case.

204. During the course of the representation, Respondent never met with or spoke to Ramos.

205. By his conduct as alleged in paragraphs 142 through 204 above, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.1, which states that a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation;
- b. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;
- c. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter;
- d. RPC 1.4(a)(4), which states that a lawyer shall promptly comply with reasonable requests for information;
- e. RPC 1.4(b), which states that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation;
- f. RPC 1.4(c), which states that a lawyer in private practice shall inform a new client in writing if the lawyer does not have professional liability insurance of at least \$100,000 per occurrence and \$300,000 in the aggregate per year, subject to commercially reasonable deductibles, retention or co-insurance, and shall inform existing clients in writing at any time the lawyer's professional liability insurance drops below either of those amounts or the lawyer's professional liability insurance is terminated. A lawyer shall maintain a record

of these disclosures for six years after the termination of the representation of a client;

- g. RPC 1.5(b), which states that when the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, in writing, before or within a reasonable time after commencing the representation;
- h. RPC 1.16(d), which states that upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law;
- i. RPC 5.3(a), which states that with respect to a nonlawyer employed or retained by or associated with a lawyer, a partner and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer;
- j. RPC 5.3(b), which states that with respect to a nonlawyer employed or retained by or associated with a lawyer, a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer;
- k. RPC 8.4(a), which states that it is professional misconduct for a lawyer to violate or attempt to violate the Rules of Professional Conduct, knowingly assist or

induce another to do so, or do so through the acts of another; and

1. RPC 8.4(c), which states that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

### **III. JOINT RECOMMENDATION FOR DISCIPLINE**

206. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct is an eighteen-month suspension from the practice of law in Pennsylvania.

207. Respondent hereby consents to the discipline being imposed by the Supreme Court of Pennsylvania. Attached to this Petition is Respondent's executed Affidavit required by Pa.R.D.E. 215(d), which states that he consents to the recommended discipline and the mandatory acknowledgements contained in Pa.R.D.E. 215(d)(1) through (4).

208. Respondent and ODC respectfully submit that there is the following aggravating factor:

- a. On October 18, 2018, Respondent received an Informal Admonition for failing to diligently handle a client's driver's license reinstatement matter and answer his client's reasonable requests for information about the reinstatement of his driver's license. (C1-14-431)

209. ODC and Respondent submit there are the following mitigating factors:

- a. By virtue of Respondent entering into the Disciplinary on Consent, Respondent expresses recognition of his wrongdoing and remorse for his misconduct;
- b. During the time of Respondent's misconduct, Respondent was experiencing extraordinary stress from family-related problems; and
- c. Respondent has agreed that should his clients seek a refund or reimbursement of fees and costs paid to Respondent, then Respondent shall participate in any proceeding before the Lawyers Fund for Client Security, Fee Dispute Committee, or Small Claims Court, and honor any award to his client.

210. Respondent agrees that if and when he seeks reinstatement, ODC will make inquiries as to whether Respondent refunded any of his fee to his clients and participated in any proceeding before the Lawyers Fund for Client Security, Fee Dispute Committee, or Small Claims Court seeking a refund of Respondent's fee.

211. Attorneys with a record of discipline who continue to neglect client matters and engage in misrepresentations to conceal their neglect generally receive a suspension ranging from six-months to three-years. See, e.g., **Office of Disciplinary Counsel v. Ronald James Gross**, No. 174 DB 2014, D.Bd. Rpt. 3/20/2014 (S.Ct. Order 4/10/2015) (on consent) (Gross, who had a record of private discipline for making misrepresentations in a motion, received a six-month suspension for failing to diligently handle a will-contest

matter, making misrepresentations to the client about the matter, and having an *ex parte* communication with a judge in an unrelated client matter); **Office of Disciplinary Counsel v. Marc D. Collazzo**, No. 165 DB 2010, D.Bd. Rpt. 11/1/2010 (S.Ct. Order 11/30/2010) (on consent) (Collazzo, who had received a three-month suspension for neglect and making false statements to his clients to conceal his neglect, received a one-year-and-one-day suspension for subsequently neglecting and making material misrepresentations to conceal his neglect in one client matter); **Office of Disciplinary Counsel v. Michael Mayro**, No. 144 DB 2001, D.Bd. Rpt. 10/27/2003, p. 22 (S.Ct. Order 2/3/2004) (Supreme Court imposed a two-year suspension on Mayro, who had previously received private discipline with probation for neglect and failing to communicate with his clients, as Mayro had "failed once again to conduct his law practice in conformance with ethical procedures."); and **Office of Disciplinary Counsel v. Anthony M. Crane**, No. 85 DB 2013, D.Bd. Rpt. 12/1/2014 (S.Ct. Order 1/19/2015) (on consent) (Crane, who had received an Informal Admonition with Conditions, received a three-year suspension for failing to: diligently handle client matters; communicate with his clients; refund unearned fees; file an answer to ODC's DB-7 Request; and satisfy the conditions of his Informal Admonition).



212. Application of the foregoing precedent to Respondent's misconduct mandates that Respondent must receive discipline that would require him to undergo a reinstatement hearing to assess his fitness to practice law. Given Respondent's multi-year pattern of neglect and multiple misrepresentations, which further delayed the reinstatement of his client's driver's license privileges, Respondent's wrongdoing warrants Respondent's receipt of an eighteen-month suspension.

213. Respondent and ODC agree that an eighteen-month suspension is appropriate as it addresses the seriousness of Respondent's misconduct while protecting the public, the courts, and the legal profession from Respondent's repeated wrongdoing. *Office of Disciplinary Counsel v. Keller*, 509 Pa. 573, 579, 506 A.2d 872, 875 (1986) (goals of attorney discipline system are to protect the public and to maintain the integrity of the profession and the courts).

WHEREFORE, Petitioner and Respondent respectfully request that:

- a. Pursuant to Pa.R.D.E. 215(e) and 215(g), the three-member panel of the Disciplinary Board review and approve the Joint Petition in Support of Discipline on Consent and recommend to the Court that the Court enter an Order

suspending Respondent from the practice of law in the Commonwealth for a period of eighteen months; and

- b. Pursuant to Pa.R.D.E. 215(i), the three-member panel of the Disciplinary Board enter an Order for Respondent to pay the necessary expenses incurred in the investigation and prosecution of this matter, and that under Pa.R.D.E. 208(g)(1), all expenses be paid by Respondent within 30 days after notice transmitted to the Respondent of taxed expenses.

Respectfully and jointly submitted,  
OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION  
CHIEF DISCIPLINARY COUNSEL

1/10/2020

Date

By

Harriet R. Brumberg  
Harriet R. Brumberg  
Disciplinary Counsel

1/16/2020

Date

By

Donald E. Vittorelli, Esquire  
Respondent


BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :  
Petitioner :  
v. : No. 174 DB 2019  
: Atty. Reg. No. 68761  
DONALD L. VITTORELLI, JR., :  
Respondent : (Philadelphia)


VERIFICATION

The statements contained in the foregoing Joint Petition  
In Support Of Discipline On Consent Under Pa.R.D.E. 215(d)  
are true and correct to the best of our knowledge or  
information and belief and are made subject to the penalties  
of 18 Pa.C.S. § 4904, relating to unsworn falsification to  
authorities.

1/10/2020  
Date

  
Harriet R. Brumberg  
Disciplinary Counsel

1/16/2020  
Date

  
Donald L. Vittorelli, Esquire  
Respondent

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :  
Petitioner :  
: No. 174 DB 2019  
v. :  
: Atty. Reg. No. 68761  
DONALD L. VITTORELLI, JR., :  
Respondent : (Philadelphia)

AFFIDAVIT UNDER RULE 215(d), Pa.R.D.E.

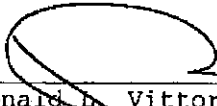
Respondent, Donald L. Vittorelli, hereby states that he consents to the imposition of an eighteen-month suspension from the practice of law in Pennsylvania; and further states that:

1. His consent is freely and voluntarily rendered; he is not being subjected to coercion or duress; he is fully aware of the implications of submitting the consent; and he has consulted with an attorney in connection with the decision to consent to discipline;

2. He is aware that there is presently pending a proceeding involving allegations that he has been guilty of misconduct as set forth in the Joint Petition;

3. He acknowledges that the material facts set forth in the Joint Petition are true; and

4. He knows that if the charges continued to be prosecuted in the pending proceeding, he could not successfully defend against them.

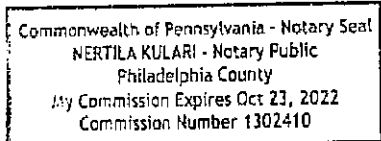
  
Donald A. Vittorelli, Esquire  
Respondent

Sworn to and subscribed

before me this 16

day of January, 2020

Nertila Kulari  
Notary Public



**CERTIFICATE OF COMPLIANCE**

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Office of Disciplinary Counsel

Signature: Harriet R. Brumberg

Name: Harriet R. Brumberg, Disciplinary Counsel

Attorney No. (if applicable): 31032