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SUPREME COURT OF NEW JERSEY

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January 24, 2022

Heather Joy Baker, Clerk
Supreme Court of New Jersey
P.O. Box 970
Trenton, New Jersey 08625-0962

Re: **In the Matter of John J. Pisano**
Docket No. DRB 21-217
District Docket No. XIV-2020-0099E

Dear Ms. Baker:

The Disciplinary Review Board has reviewed the motion for discipline by consent (admonition) filed by the Office of Attorney Ethics (the OAE) in the above matter, pursuant to R. 1:20-10. Following a review of the record, the Board granted the motion and determined to impose an admonition for respondent's violation of RPC 1.5(b) (failure to set forth in writing the basis or rate of the legal fee) and RPC 1.7(a)(2) (concurrent conflict of interest).

According to the stipulation, respondent represented a client, Lisa Perez, yet failed to communicate the basis or rate of his fee, in writing, before or within a reasonable time after commencing representation. Although respondent initially claimed to the OAE that he had executed a retainer agreement with Perez and simply could not find it, he ultimately stipulated that he had failed to do so and, thus, had violated RPC 1.5(b).

Further, under New Jersey law, simultaneous representation of a driver and passenger in an automobile accident presents a presumptive conflict of interest. Here, respondent's representation of both the driver, Jeffrey Fishman, and his passenger, Perez, might have been permissible if there was no dispute of fact that (1) the other driver was totally culpable; (2) the culpable driver's insurance coverage was sufficient to cover both claims; and (3) respondent had obtained both of his clients' written consent to the representation. However, in this case, respondent's representation commenced when liability had not yet been established and, thus, constituted a prohibited conflict of interest. Moreover, although respondent is an experienced personal injury practitioner, he made no effort to obtain his clients' written consent to the representation. Therefore, respondent's concurrent representation posed a significant risk that his representation of one client would be materially limited by his responsibilities to the other client, in violation of RPC 1.7(a)(2).

Additionally, respondent acknowledged that, upon receipt of a counterclaim filed by the other driver involved in the accident, he was duty-bound to take immediate action to transfer one or both of the files. Indeed, in the Board's view, respondent was obligated, upon the filing of the counterclaim, to transfer both files. See McDaniel v. Man Wai Lee, 419 N.J. Super. 482, 497 (App. Div. 2011). However, even after the filing of the counterclaim, respondent continued to improperly represent Fishman. Respondent, thus, violated RPC 1.7(b) in multiple respects.

In imposing only an admonition, the Board considered the compelling mitigation presented, including respondent's unblemished record in more than thirty years at the bar and that, ultimately, he stipulated to his misconduct. Moreover, the letters submitted on respondent's behalf speak to his good reputation and character.

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated September 13, 2021.
2. Stipulation of discipline by consent, dated September 13, 2021.
3. Affidavit of consent, dated September 17, 2021.

4. Ethics history, dated January 24, 2022.

Very truly yours,



Johanna Barba Jones
Chief Counsel

JBj/jm

Enclosures

- c: (w/o enclosures)
Hon. Maurice J. Gallipoli, A.J.S.C. (Ret.), Chair
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Timothy J. McNamara, Assistant Ethics Counsel
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