DISCIPLINARY REVIEW BOARD

OF THE

SUPREME COURT OF NEW JERSEY

RICHARD J. HUGHES JUSTICE COMPLEX
P.O. BOX 962
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October 24, 2022

VIA CERTIFIED, REGULAR, AND ELECTRONIC MAIL
Arthur G. Nevins, Jr.
c/o Thomas M. Barron, Esq.
800 North Church Street, Suite 102
Moorestown, New Jersey 08057
tbarron@tombarronlaw.com

Re: In the Matter of Arthur G. Nevins, Jr.
Docket No. DRB 22-126
District Docket Nos. XIV-2019-0461E and XIII-2022-0900E
LETTER OF ADMONITION

Dear Mr. Nevins:

The Disciplinary Review Board reviewed your conduct in the above matter and concluded that it was improper. Following a review of the record, the Board determined to impose an admonition for your violation of RPC 1.4(b) (failing to keep a client reasonably informed about the status of a matter); RPC 1.5(c) (failing to provide an accounting in a contingent fee matter); and RPC 1.15(c) (failing to provide an accounting at the conclusion of a contingent fee matter). The Board dismissed the charge that you further violated R. 1:21-7(g) (failing to provide a closing statement at the conclusion of a contingent fee matter), because that is not a Rule upon which discipline independently may be imposed.

Specifically, on March 5, 2004, Charlotte Bruen-Reid retained you to pursue a wrongful death lawsuit against Morristown Memorial Hospital (MMH) on behalf of her son, Christopher Butler. You and Ms. Bruen-Reid entered into a contingent fee retainer agreement, whereby your legal fee was contingent on any gross recovery in Bruen-Reid's lawsuit. The retainer agreement also specifically stated that "[t]he client will pay for all expenses. The client will reimburse the attorney for all expenses paid by the attorney. 'Expenses' include court fees, investigation expenses, expert fees and all other necessary costs[,]" and "[n]o other legal fees will be charged unless an appeal is taken by any part[y] to the suit." The agreement, however, did not require you to file an appeal.

In January 2006, you filed Bruen-Reid's lawsuit against MMH in the Superior Court of New Jersey, Law Division, Civil Part, Somerset County. On December 21, 2007, the trial court granted MMH's motion to dismiss the complaint, finding Bruen-Reid's affidavit of merit deficient. You subsequently filed a motion for reconsideration, which the trial court denied on February 29, 2008. Thereafter, on April 10, 2008, you filed an appeal of the court's February 29, 2008 denial of your motion.

You neither prepared a separate retainer agreement nor required Bruen-Reid to pay a new retainer fee for the MMH appeal. You did, however, expect Bruen-Reid to be responsible for all expenses associated with the appeal and planned to charge an hourly rate for your legal services. You admittedly did not tell Bruen-Reid what you intended to charge in legal fees prior to performing work on the appeal, claiming that you did not want to "burden" her by explaining your fees and expenses, because, in your view, she lacked the financial means to pay them.

At this stage in the MMH litigation, you had advanced filing fees; deposition costs; transcripts costs; and expert fees on behalf of Bruen-Reid. You believed that, if the appeal was unsuccessful, you would not be paid for any work performed or expenses advanced in connection with the underlying MMH litigation or the appeal.

On June 15, 2009, the Appellate Division granted your appeal and reinstated Bruen-Reid's lawsuit against MMH. Thereafter, you amended Bruen-Reid's complaint to add two defendants, a doctor and nurse. You described Bruen-Reid as being "close to the case," noting that she frequently telephoned you and visited your law office, without appointment, to discuss the matter. You

further claimed that, during this timeframe, Bruen-Reid knew of your accrued legal fees and expenses.

Also in 2009, Bruen-Reid retained you to represent her in a slip and fall lawsuit against Hunterdon Medical Center (HMC). You failed to produce the retainer agreement for the HMC matter but maintained that it had been identical to the MMH contingent fee retainer agreement. Bruen-Reid agreed that she retained you for the HMC matter on a contingent fee basis and that she had been responsible for paying the litigation expenses.

In April 2010, while both the MMH and HMC lawsuits remained pending, you informed Bruen-Reid that you could not afford to continue advancing all fees and costs and requested that she make a payment toward the expenses. Thus, on April 16, 2010, Bruen-Reid borrowed $3,000 from her parents, which she paid to you toward litigation expenses. You did not know, nor could you ascertain from your records, (1) if you deposited Bruen-Reid's $3,000 in a bank account, or (2) what expenses had been paid with the $3,000. You claimed that Bruen-Reid also agreed that, if the HMC litigation settled, you could use some or all of the settlement proceeds to pay the MMH litigation expenses (Stip¶48).

Next, multiple defendants filed a motion for summary judgment in the MMH matter, which the court denied on May 10, 2010. Consequently, certain defendants filed an interlocutory appeal. You agreed to represent Bruen-Reid in her opposition to the interlocutory appeal, but you did not prepare a new retainer agreement. You also admittedly did not provide Bruen-Reid with an estimate of the legal fees and costs for handling the interlocutory appeal. Ultimately, the Appellate Division denied the interlocutory appeal and you began preparing the MMH case for trial.

In June 2010, the HMC case settled for $60,000. The following month, in July 2010, you and Bruen-Reid met to discuss the HMC settlement funds, the ongoing MMH litigation, and payment of expenses. You explained to Bruen-Reid that (1) a portion of the HMC settlement funds would be applied towards the HMC litigation expenses, (2) then, you would take one-third of the net settlement funds as your legal fee, and (3) the remaining two-thirds belonged to her. You claimed that Bruen-Reid further agreed that you could retain her two-thirds of the HMC settlement funds and use them to pay the outstanding and upcoming expenses in the MMH matter. Thus, on July 15, 2010, you deposited the $60,000 in settlement proceeds in your attorney trust account. The following day, on July 16, 2010, you sent Bruen-Reid a letter providing a breakdown of your legal fees and the expenses for the HMC matter. That letter also

memorialized the agreement that you would retain her two-thirds of the HMC settlement funds for outstanding and upcoming MMH expenses. After deducting $19,608 in legal fees and $1,176 in expenses, a balance of $39,216 remained. You subsequently depleted the entire $39,216.[1]

From June 20 through July 5, 2011, the MMH litigation proceeded to a ten-day trial, after which the jury returned a no-cause verdict. Bruen-Reid, upset by the loss, sought to appeal the jury's adverse verdict. You told Bruen-Reid that an appeal likely would be unsuccessful and that you would not represent her in such an appeal. You also told Bruen-Reid that the HMC settlement funds had been exhausted, but admittedly provided her with "round numbers" rather than an exact accounting of the funds. At that time, in July and August 2011, Bruen-Reid did not request an accounting of how you spent the $39,216 in HMC settlement funds.

Bruen-Reid chose not to pursue an appeal of the jury's verdict in the MMH matter. Instead, between 2011 and 2017, she pursued other remedies against MMH, including speaking to the Morris County Prosecutor's Office about MMH and filing an ethics grievance against MMH's legal counsel.

Between 2011 and 2017, you continued to handle other legal matters for Bruen-Reid, but repeatedly told her that you would not represent her in further litigation related to Butler's death. Bruen-Reid ultimately asked you to represent her in fraud claims against MMH, related to Butler's death. Thus, on April 27, 2017, you sent Bruen-Reid a letter, formally declining to represent her.

On May 1, 2017, Bruen-Reid sent an e-mail to Amanda Nevins, your wife and paralegal, captioned "What Happened To My Money You Were Holding In Escrow???" In that e-mail, Bruen-Reid, for the first time, requested the return of the HMC settlement funds that you had retained and an accounting of your use of those funds.

Almost one year later, on July 28, 2018, you sent a letter to Bruen-Reid providing her with an accounting of your legal fees and expenses in the MMH

[1] In January 2019, when the OAE docketed this matter, it could not obtain respondent's bank records for July 2010 through July 2011, because the seven-year period for retention of records by banks had expired. Respondent similarly had not retained those bank records. Consequently, the OAE did not charge respondent with having violated RPC 1.15(a) or the principles of Wilson or Hollendonner (engaging in negligent or knowing misappropriation of client/escrow funds), because it had been unable to specifically identify how the $39,216 had been spent.

matter. Bruen-Reid, unsatisfied with your accounting and use of her HMC settlement funds, filed an ethics grievance against you on November 8, 2018.

In connection with its investigation, the OAE reviewed the documents that you produced to reconstruct your records. Based upon your July 28, 2018 accounting, your wife's certification, and your August 2020 submission, the OAE determined that your MMH expenses totaled $32,317.61.

The OAE further determined that you claimed to have incurred $12,800 in legal fees for the MMH case; specifically, $9,400 for the 2008 appeal and $3,400 for the 2010 interlocutory appeal. Thus, in total, you incurred legal fees and expenses totaling $45,117.61. Notably, you received only $42,216 from Bruen-Reid toward MMH legal fees and expenses – specifically, the $39,216 in HMC settlement funds, plus $3,000, on April 16, 2010.

During the OAE's investigation, Bruen-Reid disputed your claim that she had approved his use of her two-thirds of the HMC settlement funds to pay for the MMH legal fees and expenses. She further denied having received your July 16, 2010 letter memorializing that agreement. However, following its investigation, the OAE found your assertions to be credible, based upon (1) the retainer agreement memorializing Bruen-Reid's responsibility to pay MMH litigation expenses; (2) your July 16, 2010 letter to Bruen-Reid memorializing their agreement; (3) the fact that, in July 2011, Bruen-Reid did not immediately demand the return of the HMC settlement funds after the jury's no-cause verdict in the MMH litigation; and (4) that Bruen-Reid waited nearly six years to request an accounting or a return of the HMC settlement funds.

Following its review of the record, the Board determined that in July 2010, you and Bruen-Reid agreed that you could utilize Bruen-Reid's $39,216 in HMC settlement funds to pay (1) past legal fees and expenses owed in the MMH case, and (2) future litigation expenses in the MMH case. Notwithstanding that agreement, for one year – from July 2010 to July 2011 – you admittedly failed to provide Bruen-Reid with a single invoice detailing how you had spent the HMC settlement funds. You also failed to provide Bruen-Reid with an accounting for almost one year after she requested it. You, thus, violated RPC 1.4(b) by failing to keep Bruen-Reid reasonably informed about the status of her matter and RPC 1.5(c) by failing to provide Bruen-Reid with a settlement statement.

You similarly violated RPC 1.15(c) when, at the conclusion of the HMC matter in July 2011, you disbursed the settlement funds to yourself, without

providing any accounting to Bruen-Reid to explain how those funds had been depleted. However, despite the obligations established by R. 1:21-7(g), that Rule does not itself provide an independent basis for discipline. Moreover, the other charged RPC violations fully address that misconduct. The Board, thus, determined to dismiss the purported R. 1:21-7(g) charge.

In imposing only an admonition, the Board accorded considerable mitigating weight to your lack of discipline for the past thirty-five years and your admission of misconduct, as set forth in the disciplinary stipulation.

Your conduct has adversely reflected not only on you as an attorney but also on all members of the bar. Accordingly, the Board has directed the issuance of this admonition to you. R. 1:20-15(f)(4).

A permanent record of this occurrence has been filed with the Clerk of the Supreme Court and the Board's office. Should you become the subject of any further discipline, this admonition will be taken into consideration.

The Board also has directed that the costs of the disciplinary proceedings be assessed against you. An invoice of costs will be forwarded to you under separate cover.

Very truly yours,

/s/ Timothy M. Ellis

Timothy M. Ellis
Acting Chief Counsel

TME/res

c: See attached list

Chief Justice Stuart Rabner
Associate Justices
Heather Joy Baker, Clerk
Supreme Court of New Jersey
Hon. Maurice J. Gallipoli, A.J.S.C. (Ret.), Chair
Disciplinary Review Board (e-mail)
Gail G. Haney, Deputy Clerk
Supreme Court of New Jersey (w/ethics history)
Johanna Barba Jones, Director
Office of Attorney Ethics (e-mail)
Amanda W. Figland, Deputy Ethics Counsel
Office of Attorney Ethics (e-mail)
Charlotte Bruen-Reid, Grievant (regular mail)