



ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION
of the
SUPREME COURT OF ILLINOIS

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Paul Dulberg
Via email: Paul_Dulberg@comcast.net

Chicago
February 27, 2024

Re:	Edward X. Clinton	Julia Christine Williams
	in relation to	in relation to
	Paul Dulberg	Paul Dulberg
	No. 2023IN02517	No. 2023IN02518

Dear Mr. Dulberg:

We have concluded our inquiry regarding the above matters and have determined to proceed no further.

In your initial complaint, you indicated that you retained attorneys Edward Clinton and Julia Williams on October 31, 2018, to represent you in a legal malpractice case, *Paul Dulberg v. The Law Offices of Thomas J. Popovich, P.C. and Hans Mast*, McHenry County case number 17 LA 377. You alleged that Mr. Clinton and Ms. Williams used sophisticated methods of document and information suppression to suppress the release of discovery documents on your behalf in order to destroy your legal claims.

Please be advised that due to the length of your complaint, not all the facts you alleged will be recited here. In part, you alleged that Mr. Clinton and Ms. Williams buried key evidence of fraud by the defendant, suppressed documents which you sent to them, did not raise relevant case law with you, and “dumped a waterfall of documents” on you just before their withdrawal which hid the suppressed discovery among it. You alleged that Ms. Williams repeatedly misled you into believing all the relevant unprivileged documents she received from your prior attorney and from you were produced as discovery to opposing counsel in your legal malpractice case on May 30, 2019. However, you allege that there were documents produced on a thumb drive to Ms. Williams and Mr. Clinton which were intentionally renamed, moved to different folders, and inserted among other bates-numbered documents. Further, on July 10, 2020, Ms. Williams produced documents bates-stamped 2646-8708 to opposing counsel, which you alleged was an attempt by her to overwhelm you with irrelevant documents so that you did not notice other documents that Ms. Williams allegedly suppressed were included in the new production.

In one example, you stated that you declared bankruptcy in 2014 while you were the plaintiff in your personal injury case (case number 12 LA 178). You indicated that the bankruptcy

triggered an automatic stay of the proceedings, but that you prior attorneys pushed you to settle your personal injury case in violation of federal bankruptcy laws. You sent suggested edits to Ms. Williams in December 2018 of the second amended complaint in your legal malpractice case which included facts related to the bankruptcy proceedings and the binding mediation agreement which you did not consent to. Ms. Williams removed mentions of your bankruptcy from the second amended complaint and stated, in part: “[...] I don’t want to confuse the issues and the recovery by making allegations about the bankruptcy in the complaint. Further, I don’t want to increase any burden of proof we have by making allegations that are necessary to prove our case.”

Then in July 2019, you asked Ms. Williams to subpoena bankruptcy documents and communications from the bankruptcy trustees. Ms. Williams informed you that one trustee could not be subpoenaed because he was retired, and the other trustee informally responded to the subpoena without including a certificate of compliance with his response. Then in September 2019, opposing counsel requested discovery pertaining to the bankruptcy. In December 2019, Ms. Williams produced bankruptcy documents, however, those documents should have been turned over with the May 30, 2019, production, because the bankruptcy documents were contained in a thumb drive folder with other documents that were produced on that date. You later filed a complaint in Cook County (case number 2022L010905) naming, among others, the bankruptcy trustee, you prior attorneys of the Baudin Law Group, and ADR Systems of America, LLC.

You allege that Ms. Williams and Mr. Clinton should have known about the automatic bankruptcy stay, that your prior attorneys had violated the automatic stay, and that your prior attorneys pushed you to settle the personal injury case in violation of federal bankruptcy law. You also allege they failed to investigate or obtain transcripts from the personal injury case and failed to investigate how the binding mediation agreement arose when the court had no jurisdiction over your personal injury case due to the automatic bankruptcy stay. You believe that when Ms. Williams allowed the trustee to respond “informally” to the subpoena, valuable information was hidden from you which would have assisted your case. Finally, you believe that Ms. Williams intentionally suppressed the majority of bankruptcy documents on May 30, 2019, and suppressed any mention of the bankruptcy in your second amended complaint in order to sabotage your claims against Mr. Popovich and Mr. Mast, because the alleged suppression allowed opposing counsel in the legal malpractice case to “avoid all the complex issues raised in the civil complaint 2022L010905.”

In a joint written response through counsel, Mr. Clinton and Ms. Williams stated that you retained the Clinton Law Firm on October 30, 2018, to pursue your claim against Mr. Popovich and Mr. Mast. They indicate much of their involvement in the legal malpractice matter included issuing and responding to written discovery requests, the taking and defending of depositions of fact witnesses, and addressing issues concerning privilege. They stated the defendants’ primary defense was that your legal malpractice claims were barred by the applicable two-year statute of limitations. You alleged you did not discover the claim until consulting with Mr. Gooch in December 2016, and so your communications with Mr. Gooch became relevant to the litigation. Mr. Clinton and Ms. Williams were concerned about preserving confidentiality and work product privileges surrounding the strategies that were discussed prior to their involvement in the cases and asserted those privileges during your deposition.

On August 18, 2020, the Clinton Law Firm filed a motion to withdraw from your legal malpractice case, which was granted by the court on September 10, 2020. Mr. Clinton and Ms. Williams indicate they withdrew after reassessing the merits of your claim and the defenses raised by the defendants. Shortly thereafter, you retained new counsel and continued litigating the legal malpractice case. On February 1, 2023, the court entered an order granting summary judgment in favor of the defendants and dismissing the case with prejudice. Mr. Clinton and Ms. Williams state that they represented you with competence and diligence. They deny they would ever intentionally jeopardize their own client's cause of action, especially when their own recovery of fees was contingent upon any recovery they obtained on your behalf.

As you know, the duties of this Commission relate solely to investigating and prosecuting allegations of professional misconduct against licensed Illinois attorneys. When we have sufficient evidence of misconduct by an attorney, we may initiate proceedings seeking disciplinary action against the lawyer, such as disbarment or suspension from the practice of law.

Please be advised that given our limited duties, we are unable to intervene in, review, or affect legal matters which were, are, or may be the subject of court proceedings. As such, we cannot affect the findings or outcomes in any of your lawsuits, including 12 LA 178, 17 LA 377, 2022L010905, and any related appeals.

With respect to the bankruptcy proceedings, 11 U.S.C. § 362 provides for an automatic stay on proceedings against the debtor. However, you were the plaintiff in the personal injury case and thus, the action was not a proceeding against you (the debtor). As such, the automatic stay was not applicable to 12 LA 178.

The filing of the bankruptcy petition initiates the assertion of the bankruptcy court's jurisdiction over the debtor's assets and property. *Dailey v. Smith*, 292 Ill. App. 3d 22, 24, 684 N.E.2d 991, 225 Ill. Dec. 1000 (1997). Notably, all unliquidated lawsuits in which the debtor has a potential claim become part of the bankruptcy estate. *Direct Auto. Ins. Co. v. Mihane Krso*, 2021 IL App (1st) 200855-U, ¶ 40, (citing *Bd. of Managers of the 1120 Club Condo. Ass'n v. 1120 Club, LLC*, 2016 IL App (1st) 143849, ¶ 41, 408 Ill. Dec. 858, 66 N.E.3d 863.) Therefore, if a party to a lawsuit files for bankruptcy, that party is divested of standing to pursue the claim and only the bankruptcy trustee then has standing to pursue the suit. *Id.*

On November 26, 2014, you filed a voluntary petition for Chapter 7 bankruptcy. On January 8, 2015, you filed an Amended Schedule B, which listed your pending personal injury claim in 12 LA 17. On October 4, 2016, the bankruptcy trustee filed a motion to employ special counsel, Baudin Law Group, to appear and prosecute the bankruptcy estate's interest regarding your personal injury cause of action, and a motion for authority to enter into a binding mediation agreement for your personal injury claim. On October 31, 2016, the Bankruptcy Court granted both motions and ordered that the trustee was authorized to employ the Baudin Law Group and enter into a binding mediation agreement.

As such, the evidence contradicts your claims that Mr. Clinton and Ms. Williams should have known and advised you that your prior attorneys violated an automatic stay in your

bankruptcy proceeding, and that they did not investigate your claims that a binding mediation agreement was entered into when the court lacked jurisdiction. On the contrary, the actions taken with respect to the binding mediation agreement were authorized and approved by the Bankruptcy Court, and the bankruptcy trustee was granted authority to enter into the agreement and execute all necessary documents.

We understand that you disagreed with Ms. Williams' decisions regarding what not to include in your second amended complaint. However, lawyers may exercise their legal judgment in making strategic decisions and deciding how to present a case. They are not required to defer to their clients about all such matters.

Finally, please also be advised that the Illinois Supreme Court Rules require that this Commission establish all elements of a violation of the Rules of Professional Conduct by clear and convincing evidence. This standard of proof is higher than the preponderance of the evidence standard required in most civil cases. We do not believe that a formal disciplinary charge, based on your allegations of the suppression of evidence, would be successful. Although Ms. Williams later supplemented the discovery production with documents that she had in her possession at the time she made prior discovery productions, the documents were still produced to opposing counsel within the discovery deadline. We would be unable to show by clear and convincing evidence that Mr. Clinton or Ms. Williams engaged the unlawful obstruction, alteration, destruction, or concealment of evidence in your case.

Accordingly, we are closing our files on this matter.

Sincerely,

/s/ Evette Ocasio

Evette Ocasio
Litigation Counsel
ARDC Litigation Division, Chicago

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