

IN THE SUPREME COURT OF OHIO

In re: :
: :
Disciplinary Counsel, : :
: :
Co-Relator, : Case No. 2014-1404
: :
: :
Beverly J. Corner (0042725), : :
: :
Respondent. : :

**RESPONDENT'S RESPONSE BRIEF TO CO-RELATOR'S OBJECTIONS TO
THE FINAL AND SUPPLEMENTAL REPORT OF THE BOARD OF
COMMISSIONERS ON GRIEVANCES AND DISCIPLINE**

Scott J. Drexel (0091467)
Disciplinary Counsel
Co-Relator

Beverly J. Corner (0042725)
1415 East Dublin Granville Rd., Suite 104
Columbus, Ohio 43229
Respondent

Karen H. Osmond (0082202)
Assistant Disciplinary Counsel
250 Civic Center Dr., Suite 325
Columbus, Ohio 43215-7411
614-461-0256
614-461-7205 (facsimile)
Karen.Osmond@sc.ohio.gov
Counsel for Co-Relator

Alvin E. Mathews, Jr. (0038660)
James E. Arnold & Associates, LPA
115 W. Main St., 4th Floor
Columbus, Ohio 43215
614-460-1619
614-469-1134 (facsimile)
amathews@arnlaw.com
Counsel for Respondent

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I. STATEMENT OF THE CASE

This matter comes to the Court after a hearing conducted by the Board of Professional Conduct on April 22, 2014, and after Board's further review and consideration, upon remand, on September 15, 2014. At the April 22, 2014 hearing, the panel received evidence on complaints filed against Beverly J. Corner (Respondent) by Co-Relators Disciplinary Counsel and Columbus Bar Association, filed on October 14, 2013, and March 3, 2014, respectively.

The Co-Relators apparently did not know that they were simultaneously investigating Respondent's conduct; so they did not, as is typical, consolidate their investigations such that everything could be handled by a single disciplinary agency.

Prior to the April 22, 2014 hearing, the parties stipulated to the facts, alleged rule violations and aggravating and mitigating factors. See, Stipulation. Most of the violations proved by Disciplinary Counsel related to Respondent's mismanagement of her IOLTA and failure to keep proper IOLTA records in violation of Prof. Cond. R. 1.15. Id. The Columbus Bar Association Complaint principally related to Respondent's mishandling of a bankruptcy matter and her failure to promptly return a legal fee to that same bankruptcy client. Id.

Although Respondent substantially stipulated to most of the facts and alleged rule violations, she did contest certain matters related to Disciplinary Counsel's Complaint in Count III (Floyd Evans) which is the subject of Disciplinary Counsel's objection. On remand, the Board determined its August 12, 2014 Report contained a mistake -- an erroneous finding of violations of Prof. Cond. R. 1.5 and 1.15 with respect to Count III.

In their December 15, 2014 Supplemental Report, the panel and Board confirmed their recommendation that Respondent be suspended from the practice of law for two years, with one year stayed, upon conditions.

II. STATEMENT OF FACTS

Respondent substantially agrees with the statement of facts set forth in Relator's brief at pages 10-23, except as relates to the Floyd Evans matter and discussions related to the recommended sanction. Respondent presented significant character evidence, including favorable statements from subpoenaed judicial officers before whom she routinely practiced. Appendix A.

Disciplinary Counsel's 3-Count Complaint alleged that Respondent mismanaged her IOLTA, misappropriated funds of several clients, mismanaged the IOLTA funds of Floyd Evans and charged him a clearly excessive fee. Respondent fully stipulated to the facts and violations in Disciplinary Counsel's Count I and II (except those filed voluntarily dismissed). See, Stipulation. Respondent stipulated to some of the facts in Count III of Disciplinary Counsel's Complaint but did not stipulate to any of the violations alleged in Count III. Id. at ¶145.

The parties stipulated that Respondent's conduct was aggravated because she engaged in a pattern of misconduct involving multiple offenses. Id. at ¶147. The parties stipulated that Respondent's conduct was mitigated because she has never been previously disciplined and cooperated with the investigations of the Co-Relators. Id. at ¶148.

In addition, Respondent offered the testimony of a representative of the Ohio Lawyers Assistance Program (OLAP), and Jason Coale, a licensed clinical social worker. August 12, 2014 Board Report ¶157-158. The OLAP representative and Coale testified that Coale began treating Respondent in July 2013 at the time that she was diagnosed with depressive disorder. Id. His treatment continued and he discovered that Respondent's depressive disorder contributed to her ethical issues. Id. As a consequence of Coale's testimony, the Panel considered Respondent's condition a mitigating factor under BCGD Proc. Reg. 10(b)(2)(g). Id.

Given the testimony regarding Respondent's mental condition, the Board recommend that any reinstatement be conditioned on Respondent's continued treatment for depression with a qualified healthcare professional under an OLAP contract and that she be required to produce a letter from a qualified mental health professional indicating that she is able to return to the competent, ethical and professional practice of law.

III. ARGUMENT

Proposition of Law I: The Board did not exceed the scope of its remand authority when it recommended dismissal of violations in Count III in its December 15, 2014 Supplemental Report.

Disciplinary Counsel incorrectly argues that the Board should have only addressed the issue of whether Respondent owed Mr. Evans restitution and should not have corrected its erroneous factual and legal conclusions. However, in reviewing its determinations regarding restitution in Count III, the Board properly determined that certain conclusions in the August 12, 2014 Report were incorrect:

The question presented is whether Respondent is to make restitution to a former client, Floyd Evans, due to Respondent's charging of an excessive fee. In the original recommendation, the Panel and Board found violations of Prof. Cond. R. 1.5(a) [excessive or illegal fee] and Prof. Cond. R. 1.15(d) [safekeeping of client and/or third party funds] relating to Count Three of the Complaint (the Evans matter). That recommendation was made in error as to these two violations and should have been dismissed based on the evidence presented to the hearing panel.

Appendix B, Board Supplemental Report ¶1. The Supplemental Report makes it clear that the Board intended to dismiss the two violations in Count III. Had the Board simply responded that they did not wish to recommend that Respondent pay restitution such statement would not have been a truthful and accurate representation to this Court. The Board clearly intended dismissal. Accordingly, it was entirely appropriate, and it is expected, that the Board would correct inaccurate determinations.

Rather than citing a relevant precedent, Disciplinary Counsel cites the domestic relations case of Nolan v. Nolan, 11 Ohio St.3d 1 (1984) for the proposition that the Board exceeded its authority on remand. In Nolan, the trial court, having been directed to consider the question of joint occupancy of the marital residence, did not address that question, but instead changed the parties' real estate settlement. Thus, this Court determined that the trial court is without authority to extend or vary the mandate given by the reviewing appellate court.

Nolan is distinguishable from this case because the Board is charged with making findings of facts, conclusions of law and recommendations to the Court. Hence, where the Board erroneously concluded in its August 12, 2014 Report that Respondent had committed the rule violations alleged in Count III, it properly corrected those erroneous determinations. Accordingly, the Board's Supplemental Report, and its findings and conclusions do not contradict this Court's precedent in the Nolan case. Rather, the Board appropriately addressed their obligation to provide accurate findings and conclusions to this Court. See, Appendix B.

Hence, Relator's first objection should be overruled.

Proposition of Law II: Respondent did not violate Prof. Cond. R. 1.5(a) when she did not deduct prior counsel's fee from her own attorney fee.

It has long been settled that a lawyer can only be disciplined for charging a client a "clearly excessive fee," not for fee disputes between attorneys and clients. See Prof. Cond. R. 1.5(a). Thus, Relator's second objection is ill-conceived and has a potentially far-reaching consequence for personal injury practice.

In this objection, Relator appears to suggest that the Court should adopt a bright-line rule, requiring lawyers to offset their contingent fee by any lien placed on the claimant or plaintiff's recovery by a prior attorney who had been discharged. See Reid, Johnson, Downes, Andrachik

& Webster v. Lansberry (1994), 68 Ohio St.3d 570 (discharged attorney representing client pursuant to contingent fee agreement is entitled to *quantum meruit* upon successful occurrence of contingency). In effect, Disciplinary Counsel argues that the prior counsel's *quantum meruit* claim should offset successor counsel's contingent fee regardless of whether the total fee charged to the client constitutes an excessive fee or not.

Such a bright-line rule, presumably under the notion of protecting the public, would be bad for personal injury practice because it would discourage successor counsel from accepting representation on matters where a prior counsel has been discharged and is asserting a significant lien on the file.

Here, Relator is correct that attorney Michael Gertner had previously represented Floyd Evans and after some negotiation with Respondent, Gertner agreed to accept \$9,333.49 for his services. Stipulation ¶98. That fee, coupled with Respondent's 30% contingent fee amounted to a fee of approximately 36% of Mr. Evans' recovery, which Relator concedes is clearly not excessive. Appendix B, Board, Supplemental Report ¶3.

Significantly, Relator did not see fit to call Mr. Evans as a witness to present any evidence that he was dissatisfied with Respondent's fee, her representation of him or the manner in which she handled the payment of any of his medical providers. Accordingly, Relator's second objection should be overruled.

Proposition of Law III: The Panel and Board did not incorrectly dismiss Disciplinary Counsel's allegation regarding Respondent's settlement of the Grant Hospital bill.

Relator argues that the Board should have found a violation of Prof. Cond. R. 1.15(d) as relates to how Respondent made payment to Floyd Evans' medical provider, Grant Hospital. Fortunately, prior to the April 22, 2014 hearing, Respondent provided documentation that the

Grant Hospital lien was resolved to Grant's satisfaction. Appendix C. Relator did not call Mr. Evans or anyone from Grant to dispute this. Based on Relator's presentation of the evidence, the Board concluded that there is not clear and convincing evidence of a Prof. Cond. R. 1.15(d) violation. Relator's third objection should be overruled.

Proposition of Law IV: The appropriate sanction for Respondent's misconduct is a two-year suspension with the entire period stayed upon the conditions specified by the Panel and Board.

It is well settled that the Ohio Supreme Court imposes lawyer disciplinary sanctions to protect the public, not to punish -- based upon the facts of each case, the precedent of the Court, aggravating and mitigating factors, and any resultant harm to clients. Stark Cty. Bar Assn. v. Buttacavoli, 96 Ohio St.3d 424, 2002-Ohio-4743; BCGD Proc. Reg. 10(B); Disciplinary Counsel v. Broeren, 115 Ohio St.3d 473, 2007-Ohio-5251.

In the case of Disciplinary Counsel v. Edwards, 134 Ohio St.3d 271, 2012-Ohio-5643, the Ohio Supreme Court imposed the sanction of a 2-year suspension, all stayed on the condition that the respondent extend his existing OLAP contract for an additional two years from the date of the order, continue to participate in individualized counseling with a mental health professional, comply with all recommendations of OLAP and his treating mental health professional, and commit no further misconduct.

In imposing the sanction in Edwards, this Court recognized that its precedent presumes the sanction for misappropriation of client funds is disbarment. Id. at ¶ 18, citing Disciplinary Counsel v. Hunter, 106 Ohio St.3d 418, 2005-Ohio-5411. Yet, this Court further recognized that the presumed sanction may be tempered with sufficient evidence of mitigating or extenuating circumstances and typically impose an actual suspension from the practice of law in cases involving misappropriation, dishonesty, fraud, deceit or misrepresentation. Id., citing Disciplinary Counsel v. Bubna, 116 Ohio St.3d 294, 2007-Ohio-6436 (imposing a 1-year

suspension with six months stayed on an attorney who co-mingled personal and client funds, repeatedly overdrawing his trust account, and failed to pay medical expenses from a client settlement). In this case, given the strong mitigation evidence offered, Respondent recommended that her license be suspended for two years, stayed in its entirety, upon conditions.

Regarding the sanction they recommended, which is less severe than that recommended by Relator, the Panel and Board in its August 12, 2014 Report cited the case of Disciplinary Counsel v. Talikka, 135 Ohio St.3d 323, 2013-Ohio-1012. In Talikka, the attorney committed numerous violations of the rules including failure to act with reasonable diligence in representing clients in three separate cases, failing to inform two clients their cases were dismissed, failing to refund unearned portions of retainers of clients, and failing to respond to reasonable requests for information from a client. Talikka also failed to put \$10,000 belonging to a client into his IOLTA; failed to maintain records of funds he should have been holding in his IOLTA for five separate clients; and failed to properly administer those funds. Additionally, he failed to have his client sign closing statements in three different personal injury contingent fee matters and failed to promptly distribute all of the funds to clients that they were entitled to receive. Finally, the attorney's conduct in five of the client matters involved dishonesty, fraud, deceit, or misrepresentation. The sanction in Talikka was a two-year suspension with one year stayed on conditions, including payment of restitution along with statutory interest in the amounts owed and a one-year period of monitored probation.

The Panel also cited to the case of Disciplinary Counsel v. Folwell, 129 Ohio St.3d 293-297, 2011-Ohio-3181, in which the Court issued a two-year suspension with the second year stayed on conditions that the Respondent submit to a one-year period of probation. There, Folwell had engaged in a pattern of misconduct including failing to provide competent

representation and act with reasonable diligence by settling a case for a minor client without probate approval, failing to maintain separate ledgers for clients related to his IOLTA, failing to perform monthly reconciliations of the IOLTA, and improperly using client funds.

Neither of the Respondents in Talikka or Folwell presented evidence of a mental condition that mitigated their conduct. By contrast, Ms. Corner's overall mitigation evidence, including the presence of a causally related mental condition, is stronger than the mitigation evidence presented in both of the cases cited by the Board.

In this case, Ms. Corner acknowledged the wrongful nature of her conduct in failing to adhere to IOLTA rules as alleged in Counts I and II of Disciplinary Counsel's Complaint. See generally, Stipulations. Likewise, as relates to the Columbus Bar Association's Complaint, Respondent acknowledged that she mishandled the Packer Chapter 13 bankruptcy matter, and failed to promptly follow the Court's order of disgorgement. Id. Respondent cooperated with both the CBA and Disciplinary Counsel investigations. Respondent presented significant character evidence, including favorable statements from two subpoenaed judicial officers before whom she routinely practiced. See, Appendix A.

Respondent successfully argued to the Board that she does not owe any restitution based on Disciplinary Counsel's calculations on the Evans personal injury settlement; and, Respondent fully paid restitution on the Packer matter.

Respondent has entered a 4-year contract with the Ohio Lawyers Assistance Program, and at the time of the hearing, had adhered to that contract for eight months. See, Respondent's Hearing Exhibit A. Likewise, Respondent has attended mental health counseling and the Board determined her conduct was causally related to her diagnosis of depressive disorder.

IV. CONCLUSION

Based on all the foregoing, Respondent recommends that her license to practice law be suspended for a 2-year period, with the entire suspension stayed. Respondent recommends that her law practice be monitored by an attorney appointed by Relators, that she be required to continue her Ohio Lawyers Assistance Program Contract, and counseling with a qualified mental health professional. Respondent agrees with the Panel's and Board's recommendation that the Court should receive a report from a qualified mental health professional that Respondent is prepared to return to the competent, ethical and professional practice of law.

Respectfully submitted,


Alvin E. Mathews, Jr. (0038660)
James E. Arnold & Associates, LPA
115 W. Main Street, Suite 400
Columbus, OH 43215
614-460-1619
614-469-1134 (facsimile)
amathews@arnlaw.com

Counsel for Respondent Beverly J. Corner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was served via electronic mail this 26th day of January, 2015, upon the following:

Scott J. Drexel, Esq.
Disciplinary Counsel
Karen H. Osmond, Esq.
Assistant Disciplinary Counsel
250 Civic Center Dr., Suite 325
Columbus, Ohio 43215-7411

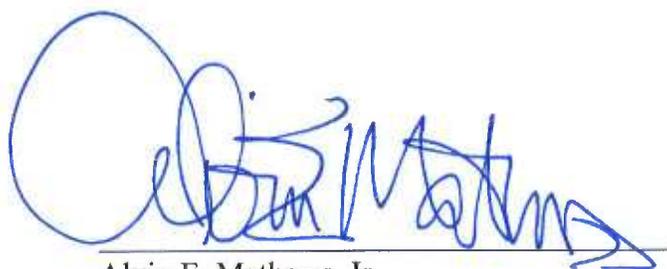
*Counsel for Co-Relator
Ohio Disciplinary Counsel*

Bruce A. Campbell, Esq.
A. Alysha Clous, Esq.
Bar Counsel, Columbus Bar Association
175 S. Third St., Suite 1100
Columbus, Ohio 43215

*Counsel for Co-Relator
Columbus Bar Association*

Also served this same date via ordinary U.S. mail, postage prepaid, upon:

Richard A. Dove, Esq.
Director of Board of Prof. Conduct
65 S. Front St., 5th Floor
Columbus, Ohio 43215



Alvin E. Mathews, Jr.

APPENDIX

Character LettersAppendix A

December 15, 2014 Supplemental Board ReportAppendix B

Proof of Payment of Evans' Grant Hospital Bill.....Appendix C

Appendix A

April 5, 2013

Alvin E. Mathews, Jr., Esq.
James E. Arnold and Associates, LPA
115 West Main Street, 4th Floor
Columbus, Ohio 43215
email: amathews@arnlaw.com

RE: Character Reference for Beverly J. Corner, Esq.

I am writing this letter in support of Beverly J. Corner, Esq. I have observed Ms. Corner in her legal practice over the last two decades as both a professional and a client. She has demonstrated her commitment to both her role as an attorney and a community servant.

During her tenure as a legal professional, I have shared an office suite with her, and had an opportunity to observe her client interaction and ability to translate difficult legal concepts, in an effort to assist them in a variety of legal issues and disputes.

Beverly and I have also served as part-time mediators for the City's Night Prosecutors office in past. As a result, I have had an opportunity to see her transfer those same skills utilized to remediate challenging domestic and family client issues.

As a client, Beverly has also handled a number of legal services for both myself and my husband over the last several years. In this light, I can personally attest to her competence and compassion for handling complex legal transactions.

It is my pleasure to provide this character reference in support of Ms. Beverly J. Corner, relevant to her legal professionalism, knowledge, and competence. If you have any questions or concerns, I would be happy to provide additional information.

Sincerely,



Dr. Wanda J. Corner, Ph.D.
Corner of Success, Inc.
P.O. Box 18429
Atlanta, GA 30316
Office (404) 622-3944
or mobile (614) 578-7112
email: cornerofsuccessinc@gmail.com

JONES, WILSON & WRIGHT LLC

ASSET RECOVERY FIRM

P.O. Box 360931
Columbus, Ohio 43236
Toll Free: 866.475.9915 • Office: 614.887.8062
www.joneswilsonwright.com

April 7, 2014

Mr. Alvin E. Mathews, Jr., Attorney
115 W. Main Street, 4th Floor
Columbus, Ohio 43215

Dear Mr. Mathews:

I'm writing this letter in support of Beverly J. Corner. I have known Beverly for over 20 years and have always known her to be of the upmost character and reputation. Beverly has always had the respect of the community, family and friends. However, since knowing her, this is the first time I have heard that someone has accused her of misconduct.

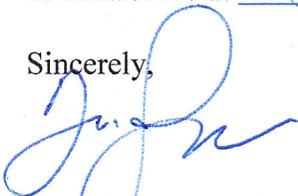
I can say with confidence that she is a very honest and hardworking person. She is always professional and courteous.

After several attempts to collect fees from a client who refused to honor a contract, I hired Beverly J. Corner to represent my company. Thanks to Beverly's skills and tenacity, we finally received the fees due to us! I was extremely satisfied and impressed with Beverly and the excellent job she did. I have recommended her to family and friends who have used her legal services and I have received positive feedback from them.

I highly recommend Beverly J. Corner to anyone looking for an ethical, professional, and committed attorney who also has an outstanding attitude and solid reputation.

Should you have any further questions regarding Beverly J. Corner, please do not hesitate to call or contact me at toni@joneswilsonwright.com.

Sincerely,



Toni L. Jones
Asset Recovery Department

Patrick F. Mangan, Attorney at Law
2999 E. Dublin-Granville Road, Suite 220
Columbus, Ohio 43231
Telephone: (614) 823-6000 Fax: (614) 899-9590
pfmangan@yahoo.com

April 9, 2014

Alvin E. Mathews, Jr., Esq.
115 West Main Street
Suite 400
Columbus, Ohio 43215

RE: Disciplinary Counsel vs. Beverly Corner

Dear Mr. Mathews:

I am writing this letter as a character reference on behalf of Attorney Beverly Corner.

I worked with Beverly as a Staff Attorney at the UAW Legal Services over 20 years ago and she has remained a colleague and referral source for me ever since we both left our employment at that firm.

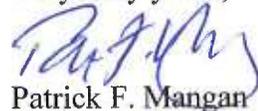
Over the years, I have had no hesitation referring clients to Beverly for domestic relation matters and other matters within her area of expertise. I have known Beverly personally as an honest and forthright attorney and would have no hesitation to refer clients or even to use her services myself at any time the need would arise.

I have found Beverly to be an honest and hard working attorney throughout the over 20 years I have known her.

On a personal note, I also have watched Beverly successfully raise her two daughters as a single mother while enduring the rigors of a solo law practice.

Please feel free to contact me should you have any further questions in this regard.

Very truly yours,



Patrick F. Mangan
Attorney at Law

Katherine A. Lias

Retired Judge, Sitting by Assignment of the Ohio Supreme Court

April 10, 2014

Mr. Alvin E. Mathews, Jr., Esq.
James E. Arnold & Associates, L.P.A.
115 W. Main Street, 4th Floor
Columbus, OH 43215

Re: Case No. 13-059

Dear Mr. Mathews:

This letter is written in response to your subpoena received by e-mail on April 9, 2014.

Prior to my retirement as a Domestic Relations/Juvenile judge in Franklin County for eighteen years and for over seven years as a retired judge sitting by assignment of the Supreme Court of Ohio, attorney Beverly J. Corner has appeared before me many times as counsel in both Domestic Relations and Juvenile cases. She has represented divorce litigants, juveniles and parents who are facing the permanent loss of custody of their children.

Upon every occasion she has presented herself as a true officer of the court, courteous to the judge, opposing counsel and court staff. She vigorously and compassionately represents her clients, many of whom are of humble means. She has always been truthful, forthright in speech and action and good natured, motivated; not by monetary gain, but by the honest desire to help her clients within the bounds of the legal process.

I have no knowledge of the allegations that have brought her before Disciplinary Counsel, but I do know that throughout my many years of professional contact with Attorney Corner, she has conducted herself with great humility and integrity.

Very truly yours,



Katherine A. Lias,
Retired Judge sitting by
assignment of the
Supreme Court of Ohio

HRB DEVELOPMENT GROUP

3133 Blue Ridge Rd.

Columbus, OH 43219

Barbra59@shglobal.net

614.348.6492

April 9, 2014

Attorney, Alvin E. Mathews, Jr.
115 W. Main Street, Ste.400
Columbus, OH 43215

Dear Attorney Mathews:

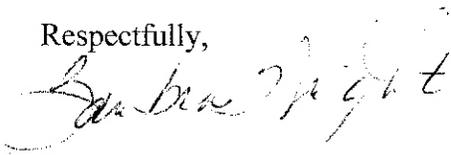
This letter is in regards to and support of Mrs. Beverly J. Corner. I have known Mrs. Corner for many years and have hired her services on numerous occasions to assist with my rental property issues.

Since having the pleasure of being introduced to Mrs. Corner, I have observed her to be a very professional, courteous, and caring individual. She has always been sensitive to my requests and has given me supportive information pertaining to my particular needs.

I have the upmost respect for Mrs. Corner and will continue to use her for all my legal advice. Plus, I will continue to recommend her to other family members and friends whenever the need may arise for any legal advice and/or services.

If I can be of further help regarding Mrs. Corner, please do not hesitate to contact me by email or telephone.

Respectfully,



Ms. Barbra Wright



Franklin County Court of Common Pleas - General Division

Judge Stephen L. McIntosh
Hall of Justice

April 11, 2014

Alvin Mathews, Attorney at Law
James E. Arnold & Associates, LPA
115 West Main Street, Suite 400
Columbus, Ohio 43215

Re: Beverly Corner

Dear Mr. Mathews:

Please accept this letter in support of Beverly Corner. I have known Bev since 1982 when we both were in law school. I have an opportunity to interact with her both personally and professionally. As Chief Prosecutor I had some opportunities to interact with her when she represented clients in the Franklin County Municipal Court. As a judge she has represented individuals in the Common Pleas Court before me on numerous occasions, personally I see her almost weekly as we have attended the same church for many years.

Professionally Bev has always been someone that cares about our profession and the individuals she represents. She firmly believes all people should have legal representation when going to court. To this end she represents many clients who would not have counsel but for the fact that she will represent them for low fees or accept payment plans. This is because she believes she can help them in their situations. The cases she has had before me she has provided outstanding representation on behalf of her clients. She seems to have an excellent rapport with the prosecutors she interacts with. Because of this I have used her as appointed counsel on cases because of the confidence I have in her ability to handle felony criminal cases.

Personally I know Bev as a very devoted mother. She has been thrust into the role of a single mother and has always placed Giovanna and Brianna first. I know it is difficult to balance a law practice and the busy schedules of teenage girls but Bev makes it work. She is an active member of Second Baptist church, being involved in many of its ministries. Bev has a wonderful heart and a wonderful spirit. Despite knowing that she has gone through some difficult times personally she is still always very positive in her outlook.

Bev mentioned her situation to me several months ago. She made no excuses, accepted responsible and placed blame only upon herself. She was very sincere about doing whatever was necessary to resolve this situation. She also wanted to make sure it did not happen in the future so she was taking steps to have someone mentor her. She was also embarrassed that she allowed this to transpire. I liked that she clearly recognize what went wrong and what she needed to do in the future.

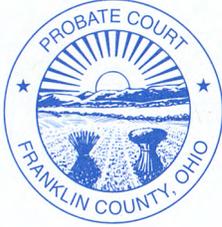
345 South High Street, Courtroom 4B, Columbus, Ohio 43215 (614) 525-3550 Fax: (614) 525-3868
Email: Stephen_McIntosh@fccourts.org

I am confident that this situation will not recur. I believe this because of Bev's genuine and earnest commitment to ensure that it does not. She practices law out of her love of our profession and the opportunities it provides for her to help others. She does not want to jeopardize this in the future. Please accept this letter of support on behalf of Beverly. If you need additional information please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen L. McIntosh", written in a cursive style.

Judge Stephen L. McIntosh



Robert G. Montgomery, Judge

Franklin County Probate Court

373 SOUTH HIGH STREET, 22ND FLOOR, COLUMBUS, OHIO 43215-6311

www.franklincountyohio.gov/probate

Phone: (614) 525-3894

Fax: (614) 525-7422

April 14, 2014

Alvin E. Matthews, Jr.
James E. Arnold & Associates, L.P.A.
115 West Main Street, Suite 400
Columbus, Ohio 43215-5099

In re: Beverly J. Corner
Supreme Court Registration Number 0042725

Dear Mr. Matthews,

This letter is in response to the subpoena duces tecum I received requesting a character letter on behalf of Beverly J. Corner. I have served as a referee then magistrate in the Franklin County Probate Court since November 1986. I was the Chief Magistrate for the Court from 1998 until I retired on January 31, 2009. I then returned to the Franklin County Probate Court as Administrative Magistrate on January 3, 2011, and continue in that role.

I met Beverly Corner shortly after she began working for the United Auto Workers' Legal Services Plan in the early 1990's. Ms. Corner started her practice on her own just over ten years ago. According to the records of this Court, Ms. Corner has served as the attorney for the fiduciary/applicant in 160 matters in this Court to include primarily guardianships and estates. I have never had a reason to doubt Ms. Corner's moral integrity as an attorney who frequently appears in this Court. She has always appeared to attempt to represent her clients to the best of her ability.

Very truly yours,

William A. Reddington
Administrative Magistrate

CAPITAL
UNIVERSITY
COLUMBUS, OHIO

April 16, 2014

Attorney Alvin Mathews
115 West Main Street
Suite 400
Columbus, Ohio 43215

Re: Beverly Corner character reference

Dear Mr. Mathews:

This letter is to offer my complete confidence, respect and support for Mrs. Beverly Cornor.

I have had a courteous, friendly business association with Mrs. Corner for the past eight years. Her two daughters have studied violin with me for that period of time. I have seen her, talked with her and have had business dealings with Beverly almost weekly for all of those years.

My experience with Beverly in all matters has been excellent. We have had many fine conversations and discussions regarding her daughters (my students) and financial matters were always done in a pleasant and informed atmosphere.

I view her character as excellent! She has always displayed a very fine level of:

1. Honesty
2. Integrity
3. Responsibility, and
4. Radiant personality

I am very pleased that I can, and do, speak for Mrs. Corner very favorably. My association with her has been beyond reproach.

Sincerely,



Prof. Andrew Lisko

Appendix B

The Supreme Court of Ohio

BOARD OF COMMISSIONERS ON GRIEVANCES & DISCIPLINE

65 SOUTH FRONT STREET, 5TH FLOOR, COLUMBUS, OH 43215-3431

Telephone: 614.387.9370 Fax: 614.387.9379

www.supremecourt.ohio.gov

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CHAIR

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VICE-CHAIR

RICHARD A. DOVE

SECRETARY

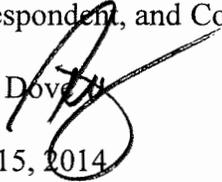
D. ALLAN ASBURY

SENIOR COUNSEL

HEIDI WAGNER DORN

COUNSEL

TO: Relator, Respondent, and Counsel of Record

FROM: Richard A. Dove 

DATE: December 15, 2014 

SUBJECT: Disciplinary Counsel and Columbus Bar Association v. Beverly J. Corner,
SCO Case No. 2014-1404/ BCGD Case No. 2013-059

On this date, the Board of Commissioners on Grievances and Discipline filed its supplemental report and recommendation in this matter with the Supreme Court of Ohio. A copy of the Board's report is enclosed.

The Supreme Court will now issue a show cause order and the parties will have twenty days after issuance of that order to file objections with the Court. A copy of any objections and brief in support should be served on the Secretary of the Board as required by Gov. Bar R. V, Section 8(B).

RAD/mlp

Enclosure

cc: Hearing Panel Members

**BEFORE THE BOARD OF COMMISSIONERS
ON GRIEVANCES AND DISCIPLINE
OF
THE SUPREME COURT OF OHIO**

In re: :

Complaint against: : **Board Case No. 2013-059**

Beverly J. Corner : **SCO Case No. 2014-1404**

Respondent :

**Disciplinary Counsel and
Columbus Bar Association** :

Co-Relators :

**SUPPLEMENTAL PANEL REPORT AND RECOMMENDATION
ON REMAND FROM THE SUPREME COURT OF OHIO**

{¶1} This matter comes before the panel on remand from the Supreme Court of Ohio. *Disciplinary Counsel, et al. v. Corner*, 2014-Ohio-3959. The question presented to is whether Respondent is to make restitution to a former client, Floyd Evans, due to Respondent's charging of an excessive fee. In the original recommendations, the panel and Board found violations of Prof. Cond. R. 1.5(a) [excessive or illegal fee] and Prof. Cond. R. 1.15(d) [safekeeping of client and/or third party funds] relating to Count Three of the complaint (the Evans matter). That recommendation was made in error as these two violations should have been dismissed based on the evidence presented to the hearing panel.

{¶2} The Evans matter involved a client who had entered into a contingency fee agreement with prior counsel. Evans then retained Respondent on a separate agreement. When the disbursement of settlement funds occurred, Respondent took her contracted fee and then

deducted the prior attorney's lien from Evan's portion of the settlement. The allegation was that this scenario resulted in an excessive fee.

{¶3} Relator has conceded that it has no case law to support the proposition that Respondent's failure to deduct prior counsel's fees from her fee constituted an illegal or excessive fee. Relator's position would have resulted in Evans paying fees totaling approximately 23% of the total settlement, whereas Respondent's action resulted in the client paying legal fees totaling approximately 36.4%. Although this is more than the total fee for which the client contracted with prior counsel and Respondent, and may constitute a breach of the fee agreements, the question for the panel and Board is whether this constitutes an illegal or excessive fee and thus a violation of Prof. Cond. R. 1.5(a). There was no clear and convincing evidence submitted to justify such a finding. The Prof. Cond. R. 1.5(a) violation should be dismissed.

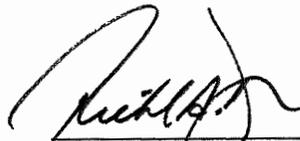
{¶4} With regard to the Prof. Cond. R. 1.15(d) violation, Respondent stipulated that she failed to account for \$2,505 owed to Grandview Family Practice (GFP) in her disbursement. The question is then whether Respondent had actual knowledge of Evans' debt to GFP and whether GFP's interest was a lien, judgment, or the subject of a written agreement between Respondent and Evans. Evans did not testify at the hearing, and Grant/GFP has since written-off the \$2,505 debt owed by Evans. There is no evidence in the record that either GFP or Grant had a lien or judgment for the amounts. Nor is there evidence that Respondent and Evans contracted for the payment of the various expenses. Therefore, there is not clear and convincing evidence of a Prof. Cond. R. 1.15(d) violation. This violation should also be dismissed.

{¶5} The panel recommends adoption of this supplemental panel report and the filing of the same with the Supreme Court.

BOARD RECOMMENDATION

Pursuant to Gov. Bar R. V, Section 6, the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio considered this matter on December 12, 2014. The Board adopts the supplemental report and recommendation of the hearing panel to dismiss the alleged violations of Prof. Cond. R. 1.5(a) and 1.15(d) in the Evans matter for lack of clear and convincing evidence and reaffirms the balance of the recommendations set forth in the Board report filed with the Supreme Court on August 12, 2014.

Pursuant to the order of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio, I hereby certify the foregoing Findings of Fact, Conclusions of Law, and Recommendation as those of the Board.



RICHARD A. DOVE, Secretary

Appendix C

DREYFUSS WILLIAMS

Attorneys & Counselors at Law

Dreyfuss Williams & Associates, Co., L.P.A.

CINDY THOMPSON
DIRECT DIAL (614) 210-0255
DIRECT FAX (614) 210-0337
EMAIL: CTHOMPSON@DREYFUSS.COM

May 3, 2012

VIA FACSIMILE

Ms. Beverly J. Corner,
5918 Sharonwoods Blvd, Suite 100
Columbus, OH 43229

Re: Grant Medical Center
Patient: Floyd J. Evans

<u>Patient</u>			<u>Our</u>
<u>Acct. No.</u>	<u>Dates of Service</u>	<u>Amount Due</u>	<u>File No.</u>
G1018220838	7/1/2010 - 7/7/2010	\$20,884.95	62271

Dear Ms. Corner:

You may recall this law firm represents, and is a business associate of, Grant Medical Center. Please provide me with a written update within fourteen (14) days from the date of this letter as to the status of Mr. Evans's personal injury action so that I may advise our client.

Thank you for your assistance.

Very truly yours,



Cindy Thompson
Legal Assistant

MTW/CT

5115 Parkcenter Ave., Suite 270
Columbus, Ohio 43017



070
SHARON WOODS (051)
1850 EAST DUBLIN GRANVILLE
COLUMBUS OH 43229
Cashbox 05 AM

Purchase Receipt
Official Check

Document Number: 1138540
Purchase Date: April 16 2013
Purchase Amount: \$18,379.95

Payee:
GRANT MEDICAL CENTER
Remitter:
B. J. CORNER

Withdrawal - [REDACTED]

SOF Account Number XXXXXX5822
Source of Funds Check \$18,379.95

System Date/Time * 11:49 APR 16 2013
W/S ID WWS070EB Sequence Number 00079
Purchase Fee \$0.00

This deposit or payment is accepted subject to verification and to the rules and regulations of this bank. Deposits may not be available for immediate withdrawal. Receipt should be held until verified with your statement.

6-12/410

No. 1138540

DATE APRIL 16, 2013



PNC Bank, National Association
Ohio

CASHIER'S CHECK

PAY TO THE ORDER OF GRANT MEDICAL CENTER

EIGHTEEN THOUSAND THREE HUNDRED SEVENTY NINE AND 95/100000

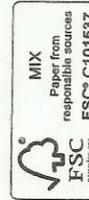
\$ 18,379.95 DOLLARS

B. J. CORNER

REMITTER

PNC Bank, National Association
[Signature]

OFFICIAL SIGNATURE



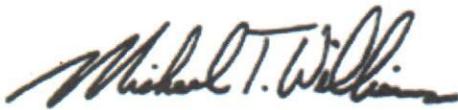
⑈0⑈1⑈38540⑈ ⑆04⑈1000⑈124⑈ ⑆000020309⑈

FORM 129064-1012
07000051

Subject: Unencrypt
From: Mike Williams (mwilliams@dreyfuss.com)
To: bjcorner@yahoo.com;
Date: Friday, April 18, 2014 9:01 AM

Please be reminded that I represent Grant Medical Center. I am writing to advise you that the account referenced below is paid in full. It has been since 2013.

G1018220838




Attorneys & Counselors at Law

CLEVELAND OFFICE

1801 East 9th Street Suite 1110
 Cleveland, Ohio 44114

*****Unless otherwise directed please respond to the Cleveland, Ohio office.**

COLUMBUS OFFICE

5115 Parkcenter Ave., Suite 270
 Dublin, Ohio 43017

(216) 916-1818 Direct Dial

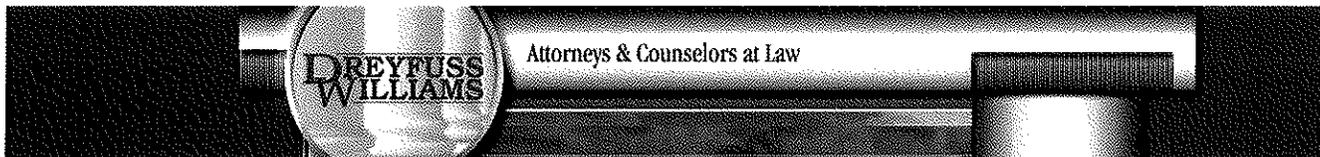
(216) 916-1838 Direct Facsimile

mwilliams@dreyfuss.com

*****CONFIDENTIALITY NOTICE*****

<https://us-mg204.mail.yahoo.com/neo/launch?.rand=9ujaln9h70u3f>

4/18/2014



bjcorner@yahoo.com

Received: Apr 18, 2014 9:44 AM
Expires: May 2, 2014 9:44 AM
From: mwilliams@dreyfuss.com
To: bjcorner@yahoo.com
Cc:
Subject:

Attachments: image007.jpg, image005.jpg, image003.jpg, image006.jpg, image004.jpg

This message was sent securely using ZixCorp.

The account was for Floyd Evans

CLEVELAND OFFICE

1801 East 9th Street Suite 1110
 Cleveland, Ohio 44114

***Unless otherwise directed please respond to the Cleveland, Ohio office.

COLUMBUS OFFICE

5115 Parkcenter Ave., Suite 270
 Dublin, Ohio 43017

(216) 916-1818 Direct Dial

(216) 916-1838 Direct Facsimile

mwilliams@dreyfuss.com

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this law firm is attempting to collect a debt, any information obtained may be used for that purpose.

From: Beverly Corner [mailto:bjcorner@yahoo.com]
Sent: Friday, April 18, 2014 9:37 AM
To: Mike Williams
Subject: Re: Unencrypt

Mr. Williams,

Thank you so much for your prompt response and assistance. I would like for you to do one change on your e-mail. Please identify the account for the patient Floyd J. Evans. I have attached the letters that were sent to me previously. Again, thank you so much for your assistance and time.

Beverly J. Corner