

Office of Attorney Ethics  
P.O. Box 963  
Trenton, NJ 08625  
Walton W. Kingsbery, III  
Deputy Ethics Counsel  
(609)530 4008

SUPREME COURT OF NEW JERSEY  
DISTRICT VA ETHICS COMMITTEE  
DOCKET NO.: VA-99-004E

DISTRICT VA ETHICS COMMITTEE,	:	
	:	
Complainant,	:	DISCIPLINARY ACTION
	:	
vs.	:	COMPLAINT
	:	(Complex Misconduct)
PATIENCE R. CLEMMONS	:	R.1:20-4(b)
	:	
Respondent,	:	

Complainant, District VA Ethics Committee, whose mailing address is c/o Essex County Bar Association, One Riverfront Plaza, Seventh Floor, Newark, New Jersey 07102, by way of Complaint against Respondent, says:

**GENERAL ALLEGATIONS**

1. Patience R. Clemmons (hereinafter called "respondent") was admitted to the Bar of the State of New Jersey in 1987.
2. Respondent is a sole practitioner and maintains her law offices at 38 Vassar Avenue, Newark. New Jersey 07112.

**FIRST COUNT**

***Competence, Diligence, Communication, Failure to Provide a Written Fee Agreement, Failure to Properly Terminate Representation, Misrepresentation***

1. Robert Seaman (hereinafter called "grievant") retained Alberta Foster, Esq. to represent him in a personal injury claim arising from a November 21, 1995 accident in which he was struck by a motor vehicle while riding a bicycle (Exhibit 1).

2. In or about early November 1997, respondent took over the handling of grievant's case from Foster (Exhibit 2).

3. Respondent did not provide a written fee agreement to grievant.

4. On November 4, 1997, respondent wrote to USAA adjuster, Robert K. Schueler advising him of the representation (Exhibit 3).

5. On November 18, 1997, respondent forwarded grievant's medical specials to Schueler by facsimile (Exhibit 4).

6. On November 19, 1997, respondent filed suit in the matter (Exhibit 5).

7. Thereafter, grievant attempted on numerous occasions to contact respondent by telephone at her New York telephone number (718-604-9387) without success.

8. Grievant left numerous messages for respondent to return his calls, but respondent did not contact him.

9. On the few occasions when grievant was able to speak with respondent, respondent assured him that she was pursuing his case.

10. Regarding grievant's unpaid medical bills, respondent advised grievant that she was attempting to have his bills paid through his PIP coverage.

11. Respondent grossly neglected the handling of grievant's personal injury case, by failing to serve the Complaint, failing to conduct discovery, failing to conduct settlement negotiations and failing in all respects to prepare the matter for trial.

12. On or about January 9, 1998, respondent wrote to grievant stating that she had filed suit and that she had "been in constant contact with the insurance company in an attempt to settle [the] matter" (Exhibit 6).

13. This statement was untrue and respondent knew that it was untrue at the time she made it.

14. In fact, respondent made one telephone contact with the insurer in October 1998 and was told that no settlement offer would be made.

15. On a number of occasions, respondent advised grievant that his case was close to settling.

16. This statement was untrue and respondent knew that it was untrue at the time she made it.

17. Grievant's case was scheduled for dismissal for lack of prosecution in August 1998.

18. Respondent received notice of the scheduled dismissal, but did not file an affidavit in opposition.

19. On or about September 14, 1998, respondent received notice that the case had been dismissed without prejudice for lack of prosecution (Exhibit 7)

20. Respondent did not advise grievant that his case had been dismissed.

21. Respondent took no steps to have the case reinstated.

22. Thereafter, grievant left twenty' (20) to thirty (30) telephone messages for respondent seeking information concerning his case, but respondent did not return his calls.

23. In November 1998, grievant contacted a friend, North Carolina attorney Marsha M. Shortell, Esq. to inquire as to the status of the matter on grievant's 'behalf.

24. Shortell wrote to respondent on November 10, 1998 seeking information concerning grievant's case (Exhibit 8).

25. Respondent did not reply.

26. Grievant attempted to retain new counsel in December 1998 and met with Charles F. Harris, Esq. to review his case.

27. At that time, Harris advised grievant that respondent was ineligible to practice law for her failure to

pay annual assessments to the New Jersey Lawyers' Fund for Client Protection.

28. Harris also provided a copy of the Court's Document List to grievant which indicated that respondent had filed a Complaint on his behalf on November 19, 1997 (See Exhibit 5) which had been dismissed on August 28, 1998 (See Exhibit 7).

29. Respondent did not advise grievant that she was ineligible to practice law.

30. On or about January 5, 1999, respondent wrote to grievant enclosing "Supplemental Interrogatories" for him to answer and return to her (Exhibit 9).

31. This action by respondent was misleading and created the false impressions that 1) respondent was eligible to practice law in New Jersey and 2) that grievant's case was active and ongoing.

32. Grievant then retained new counsel to take over the matter.

33. Counsel requested the file from respondent, but respondent ignored her requests for same.

34. As a result of respondent's mishandling of his personal injury case, grievant's credit history has been negatively affected.

35. As a result of respondent's mishandling of his personal injury case, grievant has been sued for non-payment

of bills for medical services arising from his accident (Exhibit 10).

36. In so doing, respondent committed the following violations of the Rules of Professional Conduct:

- a) RPC 1.1(a) - in that she handled or neglected a matter entrusted to her in such manner that her conduct constituted gross negligence;
- b) RPC 1.3 - in that she did not act with reasonable diligence and promptness in representing a client;
- c) RPC 1.4(a) - in that she did not keep the client reasonably informed as to the status of the matter and did not promptly comply with reasonable requests for information;
- d) RPC 1.5(b) - in that, in a situation in which she had not regularly represented the client, she failed to communicate the basis or rate of the fee in writing to the client before or within a reasonable time after commencing the representation;
- e) RPC 1.16(d) - in that, upon terminating representation, she did not 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 that has not been earned; and
- f) RPC 8.4(c) - in that she engaged in conduct involving dishonesty, fraud, deceit or misrepresentation.

**SECOND COUNT**  
***Misrepresentation.***

1. In a telephone interview with the OAE Investigator, respondent represented to the OAE Investigator that grievant's case was "close to settlement".

2. This statement by respondent was untrue and respondent knew that it was untrue at the time she made it.

3. In fact, grievant's case had been dismissed in August 1998 for lack of prosecution and there had been no settlement offer made by defendant's insurance carrier.

4. In a later interview, in response to questioning by the OAE Investigator as to when she had last spoken to the adjuster regarding settlement of this matter, respondent stated "four months ago".

5. In response to the questioning by the OAE Investigator whether settlement negotiations were ongoing, respondent replied, "I believe so".

6. Respondent then retracted her earlier statements that she last spoke to the adjuster "four months ago" and said it was "toward the beginning of the year" (1999) and that she was not currently involved in any settlement negotiations.

7. When respondent was reminded that she had previously advised that the case was "close to settlement", she stated that she believed she said that she was "trying to settle the case" and "she really couldn't say how close it was to settlement".

8. In so doing, respondent committed the following violations of the Rules of Professional Conduct:

- a) RPC 8. 4(c) - in that she engaged in conduct involving dishonesty, fraud, deceit or misrepresentation.

### **THIRD COUNT**

#### ***Failure to Maintain a Bona Fide Office***

1. On July 13, 1999, the OAE Investigator assigned to this matter visited respondent's law office address at 38 Vassar Avenue, Newark, New Jersey at approximately 10:30 A.M.
2. The structure located at 38 Vassar Avenue was a run-down, two-story, white house.
3. There was no sign or other external indication that a law office existed at that location.
4. The investigator knocked on both the front and back doors, with no one answering the door.
5. Access to the premises could not be gained.
6. In an interview with the OAE Investigator, respondent advised that she maintained her law office in the basement of her father's house located at 38 Vassar Avenue, Newark, New Jersey.
7. Respondent stated that she normally provides the Newark address and telephone number to her clients, along with her New York residence address and telephone number.
8. Respondent stated that there is one telephone line at the Newark office address with "different mailboxes on the one number".

9. Respondent stated that her mail is delivered to the Newark office address. Respondent stated that she maintains her files at her Newark office address when she does not have them in New York.

10. Respondent stated that she visits the Newark office address at least twice a week to obtain her mail and that she checks her telephone answering machine daily. Respondent stated that when she is not at the Newark office address, no one is available in person or by telephone during normal business hours.

11. In so doing, respondent committed the following violations of the Rules of Professional Conduct:

- a) RPC 5.5(a) - in that she practiced law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction.

**FOURTH COUNT**  
**Unauthorized Practice of Law, Record-Keeping**

1. Respondent was ineligible to practice law from September 1992 through October 16, 1997 for failure to pay her annual assessments to the New Jersey Lawyers' Fund for Client Protection (Exhibit 11).

2. On October 16, 1997, respondent paid \$300.00 to Client Protection and was restored to practice (Exhibit 12).

3. Thereafter, respondent failed to pay her 1998 annual assessment and again became ineligible to practice law effective on September 21, 1998.

4. In an interview with the OAE Investigator, respondent stated that she "overlooked" the 1998 assessment because she was in the process of "[focusing] on another career move" and that she had not intended to purposely practice law while ineligible.

5. In a June 4, 1998 telephone conversation with the OAE Investigator, respondent acknowledged that she had engaged in the practice of law during her current ineligibility and handled approximately three cases, which are still pending.

6. In a separate interview, respondent advised that she has five pending matters in New Jersey.

7. She stated that four of these matters were personal injury cases referred to her by Foster when Foster closed her practice. The fifth matter was a breach of contract case in which she was retained by the Newark Swim Team approximately six or eight months ago.

8. In addition, respondent advised that she began doing per diem work for Raymond Brown, Esq. (Brown), who has an office at 82 Clinton Avenue, Newark, New Jersey, in approximately July 1998.

9. Respondent does legal research, prepares briefs and attends depositions for Brown and is at his office approximately three times per week.

10. She estimated that she assisted Brown on approximately 15 matters in the last year.

11. On occasion, she has utilized Brown's conference room for depositions regarding her own pending cases.

12. Respondent acknowledges that she did not maintain the required New Jersey trust and business accounts, although she was aware that she was required to do so.

13. In so doing, respondent committed the following violations of the Rules of Professional Conduct:

- a) RPC 5.5(a) - in that she practiced law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction; and
- b) RPC 1.15(d) - in that she failed to comply with the provisions of R. 1:21-6 ("Recordkeeping") of the Court Rules.

WHEREFORE, respondent should be disciplined.

District VA Ethics Committee

Dated: August 19, 1999

/s/ Charles F. Kenney, Esq.  
Acting Vice-Chair

**SUPREME COURT OF NEW JERSEY**

**DISTRICT ETHICS COMMITTEE**

**For Essex County  
District V-A**

December 13, 1999

Walton W. Kingsbery, III, Esq.  
Office of Attorney Ethics  
P.O. Box 963  
Trenton, NJ 08625

RE: Committee vs. Patience R. Clemmons  
District Docket No. VA-99-004E

Dear Mrs. Kingsbery:

Enclosed is an original and three copies of a Certification regarding the above referenced matter for your review and, transmittal to the Disciplinary Review Board for their consideration.

Very truly yours,

/s/ Peter J. Torcicollo

/dabw  
enc.

cc. Howard A. Matalon, Esq.  
Janet Brownlee Miller, Esq.

### **Disposition**

On November 22, 2002, Respondent was suspended from practice for a period of six months. Click [here](#) for report.