

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL :
Petitioner :
: No. 47 DB 2024
v. :
: Attorney Registration No. 48644
CARLOS A. MARTIR, JR. :
Respondent : (Bucks County)

ORDER

AND NOW, this 9th day of May, 2024, in accordance with Rule 215(g), Pa.R.D.E., the three-member Panel of the Disciplinary Board having reviewed and approved the Joint Petition in Support of Discipline on Consent filed in the above captioned matter; it is

ORDERED that CARLOS A. MARTIR, JR., be subjected to a **PUBLIC REPRIMAND** by the Disciplinary Board of the Supreme Court of Pennsylvania as provided in Rule 204(a) and Rule 205(c)(9) of the Pennsylvania Rules of Disciplinary Enforcement.

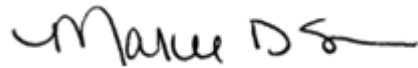
BY THE BOARD:



Board Chair

TRUE COPY FROM RECORD

Attest:



Marcee D. Sloan
Board Prothonotary
The Disciplinary Board of the
Supreme Court of Pennsylvania

**BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL, Petitioner	:	No. 47 DB 2024
v.	:	
	:	
	:	
	:	
CARLOS A. MARTIR, JR. Respondent	:	Attorney Reg. No. 48644 (Bucks County)

**JOINT PETITION IN SUPPORT
OF DISCIPLINE ON CONSENT
PURSUANT TO Pa.R.D.E. 215(d)**

Petitioner, the Office of Disciplinary Counsel (hereinafter, “ODC”) by Thomas J. Farrell, Chief Disciplinary Counsel, and Jennifer Flemister, Disciplinary Counsel and Carlos A. Martir, Jr., Esquire (hereinafter “Respondent”), by and through his counsel, Samuel C. Stretton, Esquire, respectfully petition the Disciplinary Board in support of discipline on consent, pursuant to Pennsylvania Rule of Disciplinary Enforcement (“Pa.R.D.E.”) 215(d), and in support thereof state:

1. ODC, whose principal office is situated at Office of Chief Disciplinary Counsel, Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, P.O. Box 62485, Harrisburg, Pennsylvania 17106,

FILED
04/30/2024
**The Disciplinary Board of the
Supreme Court of Pennsylvania**

is invested, pursuant to Pa.R.D.E. 207, with the power and duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of the aforesaid Enforcement Rules.

2. Respondent was born in June 1953, and was admitted to practice law in the Commonwealth on April 8, 1987. Respondent is on active status and his last registered address is Martir Law Offices 626 S. State Street Newtown, PA 18940.

3. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court.

SPECIFIC FACTUAL ALLEGATIONS ADMITTED

4. Respondent's affidavit stating, *inter alia*, his consent to the recommended discipline is attached as Exhibit A.

5. Sometime in 2014, attorney Ronald DeSimone filed on behalf of Mark H. Mumbower a Petition for Expungement in the matter captioned: *In the Matter of the Expungement of the Criminal Records of Mark K. Mumbower*, Superior Court of New Jersey Law Division, Camden County, Docket No. 62772, Criminal Action (hereinafter, "Expungement Matter").

6. On or about the summer of 2016, Mr. DeSimone filed an Amended Petition in the Expungement Matter.

7. On or about October 28, 2016, New Jersey Superior Court Judge Frederick Schuck conducted a hearing in connection with Mr. Mumbower's Expungement Matter.

8. By Order dated December 16, 2016, Judge Schuck decreed that the Petition for Expungement was denied in part and granted in part.

9. At some point in 2020 or 2021, Mr. Mumbower discovered his criminal record was still appearing on background checks.

10. On or about July 12, 2021, Mr. Mumbower consulted Respondent at which time:

- a) Mr. Mumbower explained that his job was terminating at the end of 2021, and he needed the expungement issue resolved expeditiously so that he could pass background checks conducted by potential new employers; and
- b) Respondent explained to Mr. Mumbower that Respondent would need to obtain and review the October 28, 2016 transcripts from the New Jersey Superior Court and then potentially make an Application of Pardon to the New Jersey Commission of Pardons.

11. Respondent provided Mr. Mumbower a written Fee Agreement and charged him a flat fee of \$5,000.00. Mr. Mumbower provided Respondent a check for \$2,500.00 and Respondent agreed to accept the balance when an Application for Pardon was submitted.

12. Respondent failed to inform Mr. Mumbower in writing that Respondent does not carry professional liability insurance.

13. Between July 12, 2021, and March 29, 2022, Respondent failed to diligently attend to Mr. Mumbower's legal matter.

14. Respondent submitted a transcript request to the New Jersey Superior Court on October 22, 2021 but thereafter failed to adequately follow up with the status of the transcript request.

15. Respondent failed to adequately communicate with Mr. Mumbower and keep him reasonably informed regarding the status of his matter, and often failed to timely reply to Mr. Mumbower's phone calls, emails and text messages requesting information.

16. By text message dated March 23, 2022, Mr. Mumbower expressed his frustration with Respondent stating "Carlos you got to touch base with me, I need to know what is going on. It's been 8 months now. And your [sic] not calling me back."

17. On March 31, 2022, after Respondent's repeated failure to update Mr. Mumbower and his lack of diligence in representing him, Mr. Mumford filed a civil complaint against Respondent in Magisterial District Court 07-2-07 in Bucks County captioned *Mark M. Mumbower v. Carlos A. Martir Jr.*, MJ-07207-CV-0000040-2022.

18. On June 9, 2022, Respondent was personally served with the civil complaint.

19. A hearing in the *Mumbower v. Martir* matter was scheduled for July 14, 2022.

20. Respondent received notice of the scheduled July 14, 2022 hearing.

21. Respondent failed to appear for the July 14, 2022, hearing.

22. On July 14, 2022, MDJ Michael Petrucci entered a Default Judgment for Mr. Mumford and against Respondent in the amount of \$2,675.25.

23. Respondent received Notice of the Default Judgment.

24. Respondent failed to pay Mr. Mumbower the judgment awarded to him.

25. Respondent did not appeal the July 14, 2022 judgment.

26. On September 29, 2022, Mr. Mumbower filed a Certification of Judgment from the Magisterial District Court judgment and judgment in the amount of \$2,675.25 was entered against Respondent in the Bucks County Court of Common Pleas, Case No. 2022-04911.

27. Respondent received notice of the September 29, 2022 Certification of Judgment.

28. Respondent did not appeal the September 29, 2022, Certification of Judgment.

29. After receiving from ODC a DB-7 Request for Statement of Respondent's Position dated June 30, 2023, Respondent paid Mr. Mumbower the default judgment of \$2,675.25.

30. By *Statement of Position in Response to DB-7 Request* letter dated August 22, 2023, Respondent, through his counsel, addressed Mr. Mumbower's allegations. Respondent acknowledged that "he should have handled the matter better" and he should have provided Mr. Mumbower with a detailed writing explaining what he could and could not do. Respondent further indicated that in future fee agreements, he would include a provision to comply with the Rules of Professional Conduct stating that he does not carry professional liability insurance.

SPECIFIC RULES OF PROFESSIONAL CONDUCT VIOLATED

31. By his conduct as set forth in paragraphs 4 through 30 above, Respondent acknowledges he violated the following Rules of Professional Conduct:

A. RPC 1.1, which states that a lawyer shall provide competent representation to a client;

B. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;

C. RPC 1.4(a)(2), which states that a lawyer shall reasonably consult with the client about the means by which the client's objectives are to be accomplished;

D. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter; and

E. RPC 1.4(a)(4), which requires a lawyer to promptly comply with reasonable requests for information from the client;

F. RPC 1.4(c), which requires that a lawyer shall inform a new client in writing if the lawyer does not have professional liability insurance of at least \$100,000 per occurrence and \$300,000 in the aggregate per year.

G. RPC 1.16 (d), which requires that upon termination of representation a lawyer must take reasonable steps to protect a client's interest such as refunding any advanced payment of fee that has not been earned or incurred.

SPECIFIC RECOMMENDATION FOR DISCIPLINE

32. ODC and Respondent jointly submit that Respondent is a suitable candidate to receive public discipline in the form of a public reprimand before the Disciplinary Board.

33. Respondent hereby consents to the discipline being imposed upon him by the Disciplinary Board of the Supreme Court of Pennsylvania. Attached to this Petition as Exhibit A is Respondent's executed Affidavit required by Pa.R.D.E. 215(d)(1) through (4).

34. Respondent's prior history of discipline is as follows: a) In 2003, Respondent received an informal admonition for failing to file a brief and lack of communication with his client; b) In 2005, Respondent received a private reprimand with conditions for failing to file a brief and misrepresentations to the court regarding communications with opposing counsel; c) In 2014, Respondent received an informal admonition for failing to file a brief and lack of diligence; d) In 2016, Respondent received a

public reprimand for repeated failure to appear in court and engaging in conduct prejudicial to the administration of justice.

35. Respondent's prior history of discipline is an aggravating factor warranting public discipline in this matter. Further, the fact that Respondent did not pay the default judgment until after the DB-7 was issued is also an aggravating factor.

36. ODC's investigation revealed, however, that Respondent did not completely neglect, ignore or abandon Mr. Mumbower's legal matters. Respondent submitted a transcript request in October of 2021 and then again in July and September of 2022. Similarly, Respondent did not completely ignore or neglect Mr. Mumbower's requests for information; however, his communication was typically sporadic. On many occasions Mr. Mumbower needed to make several requests for updates before receiving a response.

37. The parties agree the following are mitigating factors:

- a) Respondent has acknowledged his wrongdoing, regrets his lack of diligence and his failure to maintain adequate communication with Mr. Mumbower and has accepted responsibility for his misconduct as evidenced by his willingness to accept public discipline;

- b) Respondent took remedial action by paying the default judgment and making Mr. Mumbower whole;
- c) Respondent has cooperated with ODC throughout the disciplinary investigation; and
- d) Respondent served in the United States Army for 24 years. He retired from the U.S. Army with the rank of a Major. He served in the Judge Advocate Corps. He was deployed to Panama during the invasion, deployed to Honduras during the contra insurgence, deployed in Desert Storm One, and finally deployed to Bosnia. In his deployment, he was a convoy commander in a combat zone in an extremely dangerous area. He commanded 20+ soldiers in that responsibility. Respondent received many accommodations for his conduct, including the Army Achievement Award, the NATO, and Army achievement medals.

38. If this matter proceeded to hearing, Respondent would testify that the following also serves to mitigate his misconduct:

- a) Prior to being admitted to practice law in Pennsylvania, Respondent was admitted to practice law in 1979 in New

York. Respondent had a successful career in New York serving as an Assistant United States attorney and as an Assistant District Attorney in Brooklyn for 5 years. In that capacity, he tried many of the major homicide cases and became Chief of the Gang Unit;

b) After Respondent moved to Pennsylvania, he served as an Assistant United States attorney in the Eastern District of Pennsylvania for 12 years. As Assistant United States attorney, he prosecuted many serious criminal matters with distinction. He received the United States Attorney General's award for his performance in 8th and Butler Street narcotics prosecution. Thereafter, he served one year as a Federal Public Defender;

c) In 1998, Respondent opened a solo practice after his distinguished career in the U.S. Attorney's Office and has continued in that role through the present time. He defends many individuals charged with serious federal and state crimes in both New York and Pennsylvania. He also has tried many cases throughout the country in California, Texas, and other jurisdictions. He is a very

respected criminal defense lawyer. He is bilingual and has helped many defendants;

d) Respondent is a member of the CJA Panel in Philadelphia. He is also a member of an elite unit in New York City that is qualified to handle homicide cases;

e) Respondent acknowledges that he could have done better in the matter at issue, and he has made changes in his practice to make sure this does not happen again. One such change would include procuring support to assist with administrative tasks; and

f) Respondent is also involved in many community activities. He has done *pro bono* work for the Beth Emmanuel Messianic Congregation in Philadelphia for over ten years. He has done *pro bono* work for the Hispanic Nurses of Philadelphia for approximately 12-15 years. He also is a mentor for candidates for the United States Military Academy through his membership in the West Point Society of New York. Though Respondent did not go to West Point for his military career, at times, he was a lecturer as a JAG Officer at West Point.

39. Respondent's acknowledgment of wrongdoing; willingness to accept public discipline; payment of the default judgment effectually refunding Mr. Mumbower's fee and his cooperation with ODC dissuade against the imposition of more severe discipline. **See Office of Disciplinary Counsel v. Michael S. Geisler**, 614 A.2d 1134, 1136 (Pa. 1992) (acknowledgement of responsibility and remorse, and cooperation with Disciplinary Counsel recognized as mitigating factors); **Office of Disciplinary Counsel v. Lawrence L. Rubin**, 90 DB 2010 (D.Bd. Rpt. Oct 11, 2011)(S.Ct. Order 2/6/12) (respondent's remorse and cooperation with disciplinary proceedings are mitigating factors); **see also Office of Disciplinary Counsel v. John William Eddy**, 143 DB 2019 (D.Bd Rpt. 3/24/21) (S.Ct. Order 6/4/21) (respondent's payment of restitution and the fact that "clients were made whole" is a mitigating factor, though less weighty due to the timing of the payment); and **Office of Disciplinary Counsel v. Anthony Charles Mengine**, 66 DB 2017 (D. Bd. Rpt. 9/24/2019 at p. 55-56)(S.Ct. Order 11/26/19) (restitution to clients "may properly be considered as mitigation").

Precedent supports that a public reprimand can be appropriate for an attorney with prior history of either public or private discipline whose present misconduct stems from general neglect, deficient representation

and failure to communicate in client matters. **See Office of Disciplinary Counsel v. Kenneth Scott Saffren**, 168 DB 2021, (D.Bd. Order 1/24/22) (public reprimand imposed for respondent with prior record of public discipline (censure) who engaged in misconduct involving incompetence, neglect, and failure to communicate); **Office of Disciplinary Counsel v. Qawi Abdul-Rahman**, 57 DB 2020, (D.Bd. Order 4/23/20) (public reprimand imposed for respondent with a prior record of private discipline (informal admonition) who neglected a client's civil case, failed to communicate, and misrepresented the status of the case to the client); and **Office of Disciplinary Counsel v. Jeffrey Dean Servin**, 106 DB 2012, (public reprimand imposed for respondent with a record of both public and private discipline (public reprimand and two informal admonitions) who, *inter alia*, failed to competently represent or communicate with his client or obtain the client's consent to settle the case and/or decline prosecution of the claims).

40. Under the totality of circumstances, it is respectfully submitted that a public reprimand will adequately address the main issues at the heart of Respondent's misconduct: namely, Respondent's lack of diligence and failure to reasonably communicate with his client.

41. Based on the factual circumstances presented, Respondent's

prior history of discipline, mitigating factors and precedent it is jointly requested of the Disciplinary Board that Respondent receive a Public Reprimand. This resolution will serve to protect the public and maintain the interests of the legal profession and the Bar of the Commonwealth of Pennsylvania.

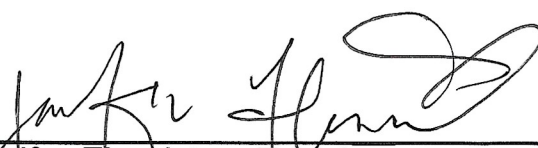
WHEREFORE, Petitioner and Respondent respectfully request that, pursuant to Pennsylvania Rules of Disciplinary Enforcement 215(e), 215(g) and 215(i), a three-member panel of the Disciplinary Board review and approve the Joint Petition in Support of Discipline on Consent and file a recommendation with the Supreme Court of Pennsylvania that Respondent receive a Public Reprimand.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL
THOMAS J. FARRELL,
Attorney Registration No. 20955,
Chief Disciplinary Counsel


4/30/24

DATE




Jennifer Flemister, Esquire
Disciplinary Counsel

4/20/24
DATE



Carlos A. Martir, Jr., Esquire
Attorney Registration No. 48644
Respondent

4/20/24
DATE

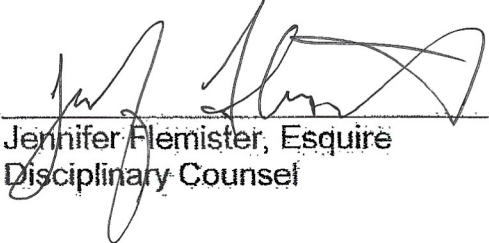


Samuel Stretton, Esquire
Attorney Registration NO. 18491
Counsel for Respondent

VERIFICATION

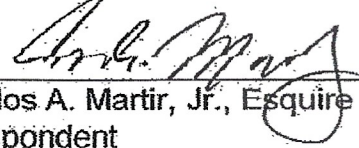
The statements contained in the foregoing *Joint Petition In Support of Discipline on Consent Discipline* are true and correct to the best of my knowledge or information and belief and are made subject to the penalties of 18 Pa.C.S.A. §4904, relating to unsworn falsification to authorities.

4/30/24
DATE



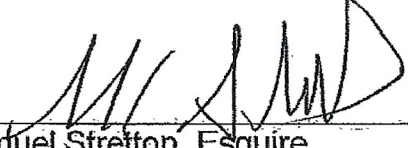
Jennifer Flemister, Esquire
Disciplinary Counsel

4/20/24
DATE



Carlos A. Martir, Jr., Esquire
Respondent

4/20/24
DATE



Samuel Stretton, Esquire
Counsel for Respondent

**BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL, Petitioner	:	No. DB 2024
v.	:	
	:	
	:	Attorney Reg. No. 48644
	:	
CARLOS A. MARTIR, JR. Respondent	:	(Bucks County)


CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing document upon all parties of record in this proceeding in accordance with the requirements of 204 Pa. Code §89.22 (relating to service by a participant).

First Class and Overnight Mail, as follows:

Samuel C. Stretton, Esquire
Law Office of Samuel C. Stretton
103 S. High Street, PO Box 3231
West Chester, PA 19381-3231

Dated: 4/30/24



Jennifer Flemister, Esquire
Disciplinary Counsel
Attorney Registration No. 326103
Office of Disciplinary Counsel
820 Adams Avenue, Suite 170
Trooper, PA 19403
(610) 650- 8210

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,:	No. DB 2024
Petitioner	:
	:
v.	:
	:
CARLOS A. MARTIR, JR.	Attorney Reg. No. 48644
Respondent	:
	(Bucks County)

AFFIDAVIT
UNDER RULE 215(d), Pa.R.D.E.

COMMONWEALTH OF PENNSYLVANIA:
COUNTY OF MONTGOMERY:

Carlos A. Martir, Jr., being duly sworn according to law, deposes and hereby submits this affidavit consenting to the recommendation of a public reprimand in conformity with Pa.R.D.E. 215(d) and further states as follows:

1. He is an attorney admitted in the Commonwealth of Pennsylvania, having been admitted to the bar on or about April 8, 1987.
2. He desires to submit a Joint Petition in Support of Discipline on Consent Pursuant to Pa.R.D.E. 215(d).

Exhibit A

3. His consent is freely and voluntarily rendered; he is not being subjected to coercion or duress, and he is fully aware of the implications of submitting this affidavit.

4. He is aware that there is presently pending a proceeding into allegations that he has been guilty of misconduct as set forth in the Joint Petition in Support of Discipline on Consent Pursuant to Pa.R.D.E. 215(d) to which this affidavit is attached.

5. He acknowledges that the material facts set forth in the Joint Petition are true.

6. He submits the within affidavit because he knows that if charges predicated upon the matter under investigation were filed, or continued to be prosecuted in the pending proceeding, he could not successfully defend against them.

7. He acknowledges that he is fully aware of his right to consult and employ counsel to represent him in the instant proceeding. He has retained, consulted and acted upon the advice of counsel, in connection with his decision to execute the within Joint Petition.

It is understood that the statements made herein are subject to the

penalties of 18 Pa.C.S.A. §4904 (relating to unsworn falsification to authorities).

Signed this 23rd day of APRIL, 2024.

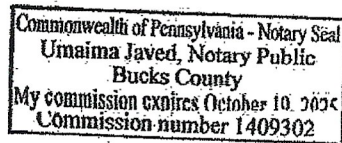


Carlos A. Martir, Jr.

Sworn to and subscribed
before me this 23rd day
of APRIL, 2024



Notary Public



CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Office of Disciplinary Counsel

Signature:  _____

Name: Jennifer Flemister

Attorney No. (if applicable): 326103