

BEFORE THE HEARING BOARD  
OF THE  
ILLINOIS ATTORNEY REGISTRATION  
AND  
DISCIPLINARY COMMISSION

In the Matter of:

DUANE PEARSALL VERITY,  
  
Attorney-Respondent,  
  
No. 6204715.

Commission No. 2022PR00022

COMPLAINT

Jerome Larkin, Administrator of the Attorney Registration and Disciplinary Commission, by his attorney, Tammy L. Evans, pursuant to Supreme Court Rule 753(b), complains of Respondent, Duane Pearsall Verity, who was licensed to practice law in Illinois on November 8, 1990, and alleges that Respondent has engaged in the following conduct which subjects him to discipline pursuant to Supreme Court Rule 770:

COUNT I

*(Lack of diligence and dishonesty – Wilma Bays)*

1. On July 6, 2018, Patrick Bays (“Patrick”) filed a petition for dissolution of marriage in Williamson County seeking a divorce from his wife, Wilma Bays (“Wilma”). The matter was docketed as case number 2018D183.

2. On August 10, 2018, Wilma filed an answer to the petition for dissolution of marriage and counter petition for dissolution of marriage through her attorney, Winter Campanella (“Campanella”).

3. On March 11, 2020, Campanella filed a motion to withdraw as counsel for Wilma. On June 23, 2020, the court granted Campanella’s motion to withdraw and ordered Wilma to retain

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other counsel within 21 days of the entry of the court's June 23, 2020 order. Wilma received a copy of the court's order.

4. On or about May 6, 2020, Wilma and Respondent agreed that Respondent would represent Wilma in case number 2018D183. Respondent and Wilma agreed that Respondent would charge Wilma a flat fee of \$1,000. On May 6, 2020, Wilma paid Respondent \$1,000.

5. At no time between May 6, 2020 and September 15, 2020, did Respondent enter his appearance in case number 2018D183.

6. Since no attorney filed an appearance on behalf of Wilma, and Wilma did not enter her own appearance within 21 days of the court's June 23, 2020 order, Patrick filed a motion for default judgment on August 19, 2020. On August 21, 2020, the court granted Patrick's motion, entered a default judgment against Wilma, and scheduled a prove-up hearing for the matter on October 13, 2021.

7. On September 16, 2020, Respondent filed a motion for substitution of attorneys in case number 2018D183. On September 21, 2020, the court considered Respondent's motion for substitution as an entry of appearance on behalf of Wilma, as Campanella had previously withdrawn as counsel.

8. Pursuant to 735 ILCS 5/2-1301, a court may, within 30 days of the entry of the default, set it aside upon request.

9. At no time between August 21, 2020 and September 21, 2020, did Respondent, on behalf of Wilma, file a motion to vacate or otherwise request that the court set aside the August 21, 2020 default judgment.

10. On October 13, 2020, Respondent appeared for the prove-up hearing and requested that the matter be continued. The court continued the matter to February 16, 2021 for a prove-up hearing.

11. Respondent did not appear for the hearing on February 16, 2021. At no time prior to February 16, 2021, did Respondent inform the court, opposing counsel, or Wilma, who was present for the hearing, that he would not be present at the hearing.

12. After Respondent failed to appear for the hearing on February 16, 2021, Jay Schafer (“Schafer”), Patrick’s counsel, asked Judge Carey C. Gill to pass the case while he attempted to contact Respondent by telephone. Schafer made contact with Respondent and asked Judge Gill to recall the case. Respondent then joined the hearing via telephone and informed Judge Gill that he was unable to appear due to health-related issues. Judge Gill directed Respondent to file a response within 30 days and continued the matter to April 27, 2021 for a prove-up hearing. Judge Gill noted in the case record sheet that she had entered a default judgment against Wilma on August 21, 2020, and, since Respondent entered his appearance in the matter on September 21, 2020, he had filed no answer or other pleading requesting that the default judgment be vacated.

13. At no time between February 16, 2021 and March 16, 2021, did Respondent file a response in case number 2018D183 despite being directed to do so by the court.

14. On March 23, 2021, Respondent filed a motion for temporary relief in case number 2018D183. On March 25, 2021, Judge Gill noted in the case record sheet that Respondent’s motion did not address the default judgment that the court entered against Wilma, and did not include a request to permit an answer to the underlying petition.

15. On March 25, 2021, Respondent filed a motion to set aside the default judgment that the court entered against Wilma on August 21, 2020.

16. On March 30, 2021, Patrick filed a motion to strike Respondent's motions as untimely.

17. On April 27, 2021, the court granted Patrick's motion to strike Respondent's motion for temporary relief and motion to set aside default judgment. The matter was continued to July 21, 2021 for a prove-up hearing.

18. On July 21, 2021, the court held a prove-up hearing, entered an order dividing the marital assets, and closed the file.

19. On or after July 21, 2021, Respondent told Wilma that the court entered the default judgment against her because his employee messed up and did not get the paperwork filed before the deadline.

20. Respondent's statement in paragraph 19, above, was false because, between August 21, 2020 and March 23, 2021, Respondent's employee didn't "mess up" and Respondent never filed or caused to be filed a motion to vacate the default judgment that the court entered against Wilma on August 21, 2020.

21. At the time Respondent made the statement to Wilma that the court entered the default judgment against her because his employee messed up and did not get the paperwork filed before the deadline, he knew the statement was false.

22. By reason of the conduct described above, Respondent has engaged in the following misconduct:

- a. failing to act with reasonable diligence and promptness in representing a client, by conduct including failing to timely file an answer to Patrick's motion for default judgment, and failing to timely file a motion to vacate the default judgment that the court entered against Wilma on August 21, 2020, in violation of Rule 1.3 of the Illinois Rules of Professional Conduct (2010); and

- b. engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation, by conduct including making a false statement to Wilma that the court entered a default judgment against her because Respondent's employee messed up and did not get the paperwork filed by the deadline, when Respondent knew he failed to file or cause to be filed a motion to vacate the default judgment that the court entered against Wilma on August 21, 2020, in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010).

## COUNT II

*(Lack of diligence and failure to return unearned fee - John Bludworth)*

23. In 1997, Darlene Bludworth ("Darlene") filed a petition for dissolution of marriage in Jackson County seeking a divorce from her husband, John Bludworth ("John"). The matter was docketed as case number 1997D133. On June 30, 1997, Darlene and John entered into a marital settlement agreement that included the division of the retirement benefits that Darlene and John accrued during their marriage. During their marriage, Darlene was employed by the Jackson County Sheriff's Office and John was employed by Illinois Central Railroad. On August 20, 1997, the court incorporated the marital settlement agreement in, and made it part of, the judgment for dissolution of marriage in case number 1997D133.

24. On September 30, 1997, the court entered a qualified domestic relations order ("QDRO") dividing John's railroad retirement benefits.

25. On or before March 25, 2019, Darlene retired from the Jackson County Sheriff's Office. On March 25, 2019, John filed a *pro se* petition for rule to show cause in case number 1997D133. In his petition, John requested that Darlene be required to show cause why she should not be held in indirect civil contempt of court for failing to designate half of her pension benefits to John, as set forth in the judgment for dissolution of marriage that was entered by the court on August 20, 1997. On April 15, 2019, Darlene filed a motion to dismiss John's *pro se* petition for rule to show cause.

26. On April 30, 2019, Respondent and John agreed that Respondent would represent John in case number 1997D133. Respondent and John agreed that Respondent would seek to amend the QDRO that had been entered years earlier, and would represent John in any additional post-judgment matters. Respondent and John agreed that Respondent would charge John a flat fee of \$2,800 for his legal services, and John paid Respondent \$2,800.

27. On May 1, 2019, Respondent entered his appearance on behalf of John and appeared in court. Respondent requested and was granted 21 days to respond to Darlene's motion to dismiss John's *pro se* petition for rule to show cause. The court continued the matter for a hearing on Darlene's motion to June 19, 2019.

28. At no time between May 1, 2019 and June 19, 2019, did Respondent file a response or objection to Darlene's motion to dismiss. On June 19, 2019, the court dismissed John's petition for rule to show cause.

29. On July 5, 2019, Darlene filed a motion for the entry of an order dividing John's non-tier one benefits under the Railroad Retirement Act ("RRA"), as a final distribution of property between the parties. Non-tier one benefits may include a supplemental annuity, vested dual benefit, and an overall minimum annuity increase, and are divisible by court order. On July 5, 2019, or shortly thereafter, Respondent received notice of Darlene's motion. The matter was scheduled for a hearing on July 23, 2019.

30. At no time between July 5, 2019 and July 23, 2019, did Respondent file a response or objection to Darlene's motion. On July 23, 2019, the court granted Darlene's motion, and entered an order dividing John's non-tier one retirement benefits.

31. As of the date of the filing of this complaint, Respondent has not refunded any portion of the fee that he received from John.

32. By reason of the conduct described above, Respondent has engaged in the following misconduct:

- a. failing to act with reasonable diligence and promptness in representing a client by conduct including failing to file a response or objection to: 1) Darlene's motion to dismiss John's petition for rule to show cause, and 2) Darlene's motion for the entry of an order dividing John's non-tier one retirement benefits, in violation of Rule 1.3 of the Illinois Rules of Professional Conduct (2010); and
- b. failing to refund an unearned fee, by conduct including failing to return any portion of the fee that Respondent received from John in connection to his representation of John in case number 1997D133, in violation of Rule 1.16(d) of the Illinois Rules of Professional Conduct (2010).

WHEREFORE, the Administrator requests that this matter be assigned to a panel of the Hearing Board, that a hearing be held, and that the panel make findings of fact, conclusions of fact and law, and a recommendation for such discipline as is warranted.

Respectfully submitted,

Jerome Larkin, Administrator  
Attorney Registration and  
Disciplinary Commission

/s/ Tammy L. Evans  
Tammy L. Evans

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