

IN DISCIPLINARY DISTRICT II
OF THE
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE

IN RE: HERBERT SANFORD MONCIER, BPR NO. 001910
Respondent, an attorney licensed
to practice law in Tennessee
(Knox County)

FILE NO. 65783-2-DN

PUBLIC CENSURE

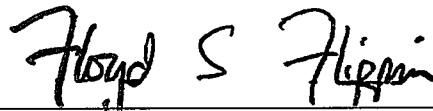
The above complaint was filed against Herbert Sanford Moncier, #001910, an attorney licensed to practice law in Tennessee, alleging certain acts of misconduct. Pursuant to Tenn. Sup. Ct. R. 9, the Board of Professional Responsibility considered these matters at its meeting on September 9, 2022.

Mr. Moncier brought a *qui tam* false claims action on behalf of a client for recovery of funds for Knox County, Tennessee. If the lawsuit was successful, the client would share in any recovery, and Mr. Moncier would receive attorney fees. The client also had a federal suit against Knox County alleging employment violations. Mr. Moncier did not represent the client in the federal suit, which was ordered to mediation. At mediation, the client entered into a monetary settlement of the federal lawsuit. As part of the settlement, the client agreed to dismiss with prejudice the state false claims action. Mr. Moncier opposed his client's decision to settle that state false claims action. He argued in opposition to the settlement agreement and the dismissal with prejudice. The state court dismissed the client's false claims action with prejudice.

After the conclusion of the representation, Mr. Moncier filed a second *qui tam* suit in state court on his own behalf complaining of false claims allegedly made by his former client, Knox County officials, and the former client's attorneys in settling the first state false claims action. The second false claims action was substantially related to the first false claims action. Mr. Moncier acted as his own attorney in the second false claims action and had a personal interest in the second false claims action. Mr. Moncier initially named his former client as a defendant in the second false claims action, but then he voluntarily withdrew the complaint against his former client. The court entered an order disqualifying Mr. Moncier from representing the interests of Knox County in the second false claims action. The court ordered Mr. Moncier to retain successor counsel in the second false claims action. Mr. Moncier failed to comply with the trial court's order prohibiting him from representing himself and requiring him to obtain successor counsel. Mr. Moncier filed pleadings to alter or amend the orders disqualifying him and requiring him to retain successor counsel. The court dismissed the second false claims action.

By these acts, Mr. Moncier has violated Rules of Professional Conduct 1.2(a) (scope of representation and allocation of authority between client and lawyer), 1.3 (diligence), 1.7 (conflict of interest: current clients), 1.9 (duties to former clients), 3.1 (meritorious claims and contentions), 3.4(c) (fairness to opposing party and counsel), and 8.4(g) (misconduct) and is hereby Publicly Censured for these violations.

FOR THE BOARD OF
PROFESSIONAL RESPONSIBILITY



Floyd S. Flippin, Chair

10-31-22

Date