

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED

03/27/2025

Clerk of the
Appellate Courts

IN RE: CARLOS EUGENE MOORE, BPR No. 028649

An Attorney Licensed to Practice Law in Tennessee
(Grenada, Mississippi)

No. M2025-00267-SC-BAR-BP

BOPR No. 2025-3478-5-AW-25

ORDER OF RECIPROCAL DISCIPLINE

This matter is before the Court pursuant to Tenn. Sup. Ct. R. 9, § 25, upon a Notice of Submission filed by the Board of Professional Responsibility (“Board”) consisting of a certified copy of the *Opinion and Final Judgment* entered by the Complaint Tribunal for the Supreme Court of Mississippi on December 31, 2024, imposing a one (1) year suspension with conditions on Carlos Eugene Moore.

On February 25, 2025, this Court entered a Notice of Reciprocal Discipline requiring Mr. Moore to inform this Court, within thirty (30) days of receipt of the Notice, of any claim by Mr. Moore predicated upon the grounds set forth in Tenn. Sup. Ct. R. 9, § 25.4, that the imposition of identical discipline in Tennessee would be unwarranted and the reasons therefor. Mr. Moore filed a response and does not oppose the imposition of retroactive reciprocal discipline, as the Board proposes.

After careful consideration of the record in this matter, the Court finds, based upon the particular facts of this case, that none of the elements in Tenn. Sup. Ct. R. 9, § 25.4, exist. Accordingly, it is appropriate to enter an Order of Reciprocal Discipline imposing one (1) year suspension on Carlos Eugene Moore.

IT IS, THEREFORE, CONSIDERED, ORDERED, ADJUDGED, AND DECREED BY THE COURT THAT:

- (1) Carlos Eugene Moore is hereby suspended for one (1) year, retroactive to December 31, 2024, and shall comply with the terms and conditions set forth in the *Opinion and Final Judgment* entered December 31, 2024, by the Complaint Tribunal for the Supreme Court of Mississippi (attached as Exhibit A).
- (2) Pursuant to Tenn. Sup. Ct. R. 9, § 28.1, this Order shall be effective upon

entry.

- (3) The Board of Professional Responsibility shall cause notice of this discipline to be published as required by Tenn. Sup. Ct. R. 9, § 28.11.

PER CURIAM

FILED
A True Copy
This No. 146
February 25
Office of the Clerk
Supreme Court and Court of Appeals
State of Mississippi
COMPLAINANT

IN THE SUPREME COURT OF MISSISSIPPI
COMPLAINT TRIBUNAL

THE MISSISSIPPI BAR

FILED

V.

DEC 31 2024

CAUSE NO.: 2024-B-00275

CARLOS E. MOORE

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

RESPONDENT

OPINION AND FINAL JUDGMENT

THIS CAUSE came on for hearing before the Complaint Tribunal on November 19, 2024, on the Mississippi Bar's (hereinafter "the Bar") Formal Complaint against Carlos E. Moore (hereinafter "Mr. Moore"). Based on the testimony and evidence provided, the Tribunal members find, based upon clear and convincing evidence, order and adjudge as follows:

FINDINGS OF FACT

This Tribunal has jurisdiction over the parties and subject matter herein under Rule 8 of the Mississippi Rules of Discipline for the Mississippi State Bar (hereinafter "MRD"). Mr. Moore was admitted to practice law in Mississippi in 2002. At all relevant times in this Complaint, Mr. Moore was an active member in good standing and subject to the disciplinary jurisdiction of the Supreme Court of Mississippi and its designated agencies. The Mississippi Bar, Post Office Box 2168, Jackson, Mississippi 39225-2168 is a designated disciplinary agency pursuant to Rule 3, MRD. The Formal Complaint was filed on March 6, 2024, pursuant to a directive from the Committee on Professional Responsibility to the Bar's General Counsel as contemplated by Rule 7(b)(iii), MRD.

On February 21, 2022, the Mississippi Bar received an informal [Bar] complaint filed pursuant to Rule 5, MRD, by Adam Kilgore in his capacity as General Counsel for the Mississippi Bar. The informal [Bar] complaint was based on an information and belief letter sent to the Bar by Attorney Philip Laura pursuant to Rule 8.3 of the Mississippi Rules of Professional Conduct (hereinafter "MRPC"). The informal [Bar] complaint alleged that Mr. Moore violated multiple Mississippi Rules of Professional Conduct in the handling of wrongful death settlement funds belonging to the Estate of

Jamaal Mallard, Deceased. A copy of the Informal [Bar] complaint and corresponding information and belief letter was attached to the Formal Complaint as Exhibit "A."

Mr. Moore was hired by Nanette Mallard on March 22, 2017, to handle a wrongful death claim in the United States District Court for the Southern District of Mississippi, Northern Division, and the corresponding estate matter in the Chancery Court of Hinds County, Mississippi, First Judicial District. At the time Mr. Moore was retained, the Estate of Jamaal Mallard, Deceased, had already been opened by Nanette Mallard's previous attorney, Chokwe Lumumba, in Hinds County Chancery Cause Number P2016-550/3. On February 23, 2016, Chancellor Denise Sweet Owens (hereinafter "Chancellor Owens") entered an *Order Approving Opening of Intestate Estate, Appointing of Administratrix, and Issuance of Letters of Administration*. (Trial Exhibit 2) Said Order appointed Nanette Mallard, mother of the decedent, as Administratrix for the Estate; stated that the only asset of the estate was the wrongful death action; and directed that, in lieu of the Administratrix posting a bond, any recovery on behalf of the decedent and/or funds received on behalf of and by the estate be placed into an estate account and not be disbursed without a court order.

It is Mr. Moore's testimony that, once retained in 2017, he reviewed the estate's docket sheet for Letters of Administration but did not review the contents of the court file and was, therefore, unaware of the Chancellor's directive in the *Order Approving Opening of Intestate Estate, Appointing of Administratrix, and Issuance of Letters of Administration*.

Mr. Moore filed a *Complaint* in the United States District Court for the Southern District of Mississippi, Northern Division, for the wrongful death of Jamaal Mallard on March 29, 2017 (Trial Exhibit 4) in cause number 3:17-cv-216-CWR-FKB. The Plaintiffs were listed as Nanette Mallard, Individually and on Behalf of All Heirs-At-Law and/or Wrongful Death Beneficiaries of Jamaal Mallard, Deceased, and the Estate of Jamaal Mallard. On or about September 21, 2018, Mr. Moore successfully settled the wrongful death case for \$300,000.00. On that date, Nanette Mallard signed an Absolute Release with Covenants as "Nanette Mallard, Individually and On Behalf of The Estate of Jamaal Mallard." (Trial Exhibit 3) Mr. Moore admitted that the \$300,000.00 received as settlement

funds was deposited into his IOLTA account. No notice of any kind was sent by Mr. Moore to Jamuric Mallard to notify him of the receipt of funds. Mr. Moore did not send Jamuric Mallard, who was incarcerated at the time, a letter or any type of documentation informing him of the receipt of the wrongful death settlement funds. Mr. Moore testified that he left it to Nanette Mallard; as Administratrix, fiduciary, and mother of Jamuric Mallard; to notify Jamuric Mallard.

On September 26, 2018, five days after the Absolute Release with Covenants was signed, Chancellor Owens entered an *Order Determining Heirship* in the Estate of Jamaal Mallard, Deceased. (Trial Exhibit 9) The *Order Determining Heirship* was actually signed by Chancellor Owens on the same day Nanette Mallard signed the Absolute Release with Covenants in the wrongful death matter. Mr. Moore testified at trial that he had knowledge of the settlement at the time the *Order Determining Heirship* was entered. Mr. Moore further testified that it was his belief that this order gave him the authority to disburse the wrongful death settlement funds.

The *Order Determining Heirs* stated that "the only heirs of Jamaal Mallard, Deceased, are hereby adjudicated to be as follows and the personal property divided as follows: Nanette Mallard, mother, is entitled to fifty percent (50%) of the Estate and Jamuric Mallard, brother, is entitled to fifty percent (50%) of the Estate." The order does not mention the settlement of the wrongful death claim and does not give any instruction on disbursement of any settlement proceeds, including liens and attorney fees. Chancellor Owens testified at trial that she did not consider the *Order Determining Heirship* to be an order directing the disbursement of any estate assets.

There was no petition to determine wrongful death beneficiaries filed in the Estate of Jamaal Mallard, Deceased. No Rule 4 summons was ever issued or served upon Jamuric Mallard or any other potential beneficiaries on a petition to determine wrongful death beneficiaries, and no order was entered by Chancellor Owens determining the wrongful death beneficiaries of Jamaal Mallard. The only summons issued in the Estate of Jamaal Mallard, Deceased, was a *Rule 81 Summons by Publication for Any and All Unknown Heirs* on the *Petition to Determine Heirs*.

On October 1, 2018, Nanette Mallard signed an Acknowledgement of Conclusion of Representation and Disbursement Authority and Direction, etc. which was drafted by Mr. Moore's office. (Trial Exhibit 6) The document outlined the disbursement of funds as follows: attorney fees to Moore Law Group in the amount of \$65,000.00; expenses to Moore Law Group in the amount of \$11,000.00; attorney fees to Mike Carr in the amount of \$34,650.00; expenses to Mike Carr in the amount of \$708.50; lien to Oasis in the amount of \$6,950.00; and remainder to the heirs, consisting of Nanette Mallard in the amount of \$90,845.75 and Jamuric Mallard in the amount of \$90,845.75. The last paragraph of the document states "the attorney is released from any further responsibilities of any kind, nature, or character as relates to retaining any of the documents and other tangible things in their file referenced above, and their representation of me in this matter is finally concluded upon completion of this disbursement." The wrongful death settlement funds were disbursed as listed in the document with the exception of the remainder to heirs. Instead, Mr. Moore disbursed funds from his IOLTA account to Nanette Mallard in the amount of \$181,691.50. The check stub noted Nanette Mallard and Jamuric Mallard as heirs, but no funds were distributed to Jamuric Mallard.

No further actions were taken in the Estate of Jamaal Mallard, Deceased, for more than two and half years. Jamuric Mallard, then, retained counsel to determine the whereabouts of his portion of the wrongful death settlement proceeds. Jamuric Mallard's counsel, Phillip Laura, contacted Mr. Moore regarding the funds and was told he would need to file an entry of appearance in the Estate of Jamaal Mallard, Deceased, which had remained open. Mr. Laura filed a *Petition to Provide Accounting and Inventory* on July 2, 2021. (Trial Exhibit 7) Seven days later, on July 9, 2021, Mr. Moore deposited \$90,845.75 of his own personal funds into his IOLTA Account and wrote a check from his IOLTA account to Jamuric Mallard in the amount of \$90,845.75, which was placed in Mr. Laura's trust account. Mr. Moore did not speak with Nanette Mallard regarding the whereabouts of the wrongful death settlement funds belonging to Jamuric Mallard prior to paying the funds owed to Jamuric Mallard from his own funds. Mr. Moore testified that he read Rule 1.15 of the Mississippi Rules of Professional Conduct and determined that he was required to pay the money.

Mr. Moore testified that, when he disbursed \$181,691.50 to Nanette Mallard in 2018, he took the check to Nanette Mallard himself and told her to deposit Jamuric Mallard's portion until it could be disbursed to Jamuric. (Jamuric Mallard was incarcerated at the time.) Mr. Moore did not assist Nanette Mallard in opening an estate account. Mr. Moore stated that he did not know Nanette Mallard had converted the funds belonging to Jamuric Mallard to her own personal use until January 11, 2022, when Nanette Mallard testified to same during a Zoom hearing with Chancellor Owens.

The payment of the \$90,845.75 to Jamuric Mallard by Mr. Moore in July 2021 did not address the disbursement of wrongful death settlement proceeds to the attorneys and Oasis. Therefore, on August 6, 2021, Jamuric Mallard, through counsel, filed a *Complaint* in the Circuit Court of Hinds County, Mississippi, Cause Number 21-493, styled *Jamuric Mallard vs. Nanette Mallard; Carlos Moore; Moore Law Group, P.C.; Tucker Moore Group, LLP; Michael Carr; Carr & Calderon, PLLC; Carr Law Firm, PLLC; and John Does 1-10*. (Trial Exhibit 8) In turn, Mr. Moore filed a *Petition for Approval of Wrongful Death Settlement* in the Estate of Jamaal Mallard, Deceased, on August 10, 2021. (Trial Exhibit 5) The *Petition for Approval of Wrongful Death Settlement* requested that Nanette Mallard be allowed to accept and execute all documents related to the settlement of the wrongful death claim and that payment of attorney's fees and reimbursement of expenses be authorized pursuant to the Authority to Represent – Contingent Fee contract. The petition also outlined disbursement of the settlement funds belonging to the estate, including the attorney fees and expenses totaling \$111,358.50; the lien to Oasis in the amount of \$6,950.00; and \$90,845.75 to each heir, Nanette Mallard and Jamuric Mallard.

On January 11, 2022, a Zoom hearing was held in the Estate of Jamaal Mallard, Deceased, before Chancellor Owens. (A transcript of that hearing is Trial Exhibit 13.) The purpose of the hearing was the *Petition for Approval of Wrongful Death Settlement*. Mr. Moore told the Court "we searched and upon Mr. Laura bringing it to my attention, we saw that the settlement should have been approved by the Court, and so we filed a petition to approve wrongful death settlement basically

asking the Court to ratify what has been done.” (Trial Exhibit 13 at Page 10, Lines 16-21) When giving a summary of what had been done, Mr. Moore represented to the Court as follows:

The defendant, the City of Jackson, and I got together. They sent the release. They did not require – a lot of times, the defendants require an approval of a settlement if there is an estate opened. They did not require it and didn’t bring it to our attention that it was necessary, so we had Ms. Mallard to sign everything and we, you know, disbursed her money. And when her son came forth and requested his money, we sent a check for the same amount that we had given to Ms. Mallard for her benefit to her son’s attorney, Mr. Laura.

(*Id.* at Page 10, Lines 3-14) It was Nanette Mallard who informed the Court that she was given a check for \$181,691.50. (*Id.* at page 43, lines 19-25)

During the hearing, Mr. Moore told Chancellor Owens that “we had a 40 percent contract with Ms. Mallard as executor of the estate and in her individual capacity,” but that he had reduced the attorneys’ fees to a third. (Trial Exhibit 13, page 9, lines 11-18) Mr. Moore also told the Court that “we do believe that some of the money from Oasis Financial funding source that she received, the 6950, may have gone to help reimburse her sooner than later for the money that she outlaid for the funeral.” (Trial Exhibit 13, page 12, lines 1-5) There was a lot of discussion concerning what amounts were owed by Nanette Mallard, individually, and what amounts should have been disbursed from the settlement proceeds as expenses of the estate. Ultimately, Chancellor Owens instructed the attorneys to get another hearing date to conclude the matter if it could not be settled.

A settlement was reached on the *Complaint* filed in the Circuit Court of Hinds County, Mississippi, on January 26, 2022, for a total of \$120,845.75. (See Trial Exhibit 15) Mr. Moore was given credit for the \$90,845.75 already paid to Jamuric Mallard and held in trust by Philip Laura. Jamuric Mallard, through counsel, filed a *Withdrawal of Petition for Accounting, Withdrawal of Motion to Strike, Withdrawal of Motion for More Definite Statement, Withdrawal of Response to Petition for Approval of Wrongful Death Settlement and Withdrawal of Petition for Approval of Partial Settlement on Behalf of the Estate* in the Estate of Jamaal Mallard, Deceased, on February 7, 2022. No order was ever entered on the *Petition to Approve Wrongful Death Settlement*. The parties did not return to the

Chancery Court on the Estate of Jamaal Mallard, Deceased, after the January 11, 2022, Zoom hearing. Chancellor Owens issued a *Show Cause Order* on June 2, 2022, ordering the parties to appear on July 5, 2022. (Trial Exhibit 10) When no one appeared at the July 5, 2022, hearing, Chancellor Owens entered an *Order of Dismissal* on her own motion stating that “the wrongful death benefits have been distributed to the heirs at law of the deceased, and there have been no claims filed.” (Trial Exhibit 11) At the trial of the instant matter, Chancellor Owens testified that she was not aware that the wrongful death settlement funds were deposited into Mr. Moore’s IOLTA account instead of an estate account.

CONCLUSIONS OF LAW

Rule 1.1, MRPC

Rule 1.1, MRPC, states that a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation. There was much argument presented at trial as to heirs-at-law versus wrongful death beneficiaries. Under Mississippi Code Annotated § 11-7-13, there are three alternatives for bringing a wrongful death suit: (1) by the personal representative on behalf of the estate and all other persons entitled to recover; (2) by one of the wrongful death beneficiaries on behalf of all persons entitled to recover; or (3) by “all interested parties...” *Long v. McKinney*, 897 So. 2d 160, 168 (Miss. 2004). “The estate is entitled to recover funeral costs and final medical expenses. The beneficiaries are entitled to recover for their respective claims of loss of society and companionship. The wrongful death beneficiaries are entitled to recover the present net cash value of the decedent’s continued existence.” *Id.* at 169. Most importantly, “where a recovery is had by the estate in the litigation, the proceeds must be administered and distributed through the chancery court in the same manner as other assets of the estate, and counsel for the estate must be paid from estate proceeds or assets, upon approval of the chancery court in the same manner as other debts and obligations of the estate.” *Id.* at 175.

From the exhibits presented a trial, it was the Estate of Jamaal Mallard, Deceased, that sought authority from the Chancery Court to pursue the wrongful death claim in federal court. In the *Order Approving Opening of Intestate Estate, Appointing of Administratrix, and Issuance of Letters of Administration*, Chancellor Owens found that "the only asset of this estate is the wrongful death claim." Further, the *Complaint* filed by Mr. Moore in the United States District Court for the Southern District of Mississippi, Northern Division, was styled as *Nanette Mallard, Individually and on Behalf of All Heirs-At-Law and/or Wrongful Death Beneficiaries of Jamaal Mallard, Deceased, and the Estate of Jamaal Mallard v. City of Jackson, et al.* The Absolute Release With Covenants was signed by "Nanette Mallard, Individually and On Behalf of the Estate of Jamaal Mallard." The check stub for the disbursement of wrongful death settlement proceeds written to Nanette Mallard from Mr. Moore's IOLTA account referred to Nanette Mallard and Jamuric Mallard as "heirs" instead of "wrongful death beneficiaries." Lastly, the *Petition for Approval of Wrongful Death Settlement* at no point refers to wrongful death beneficiaries, but does refer to the "remainder of the proceeds belonging to the Estate" after payment of the attorneys' fees and expenses and the lien to Oasis for funds used to reimburse Nanette Mallard for funeral expenses. Further, while determination of wrongful death beneficiaries is not required, it is noted that, following the settlement of the wrongful death claim, Mr. Moore filed a *Petition to Determine Heirship* instead of a petition to determine wrongful death beneficiaries. The only summons issued in the Estate of Jamaal Mallard, Deceased, was a *Rule 81 Summons by Publication for Any and All Unknown Heirs*. Jamuric Mallard was served with neither a Rule 81 Summons nor a Rule 4 Summons. However, there was an *Order Determining Heirship* entered by Chancellor Owens naming Nanette Mallard and Jamuric Mallard the only heirs of Jamaal Mallard and finding each to be entitled to fifty percent of the Estate. Given the evidence provided, it is clear that the Estate of Jamaal Mallard, Deceased, was an appropriate claimant in the wrongful death action brought in the United States District Court for the Southern District of Mississippi, Northern Division, and as such, the wrongful death settlement should have been properly administered as an asset of the Estate.

The Comment to Rule 1.1, MRPC, states “competent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem, and use of methods and procedures meeting the standards of competent practitioners. It also includes adequate preparation.” Mr. Moore failed to meet the requirements of competent representation from the time he was retained by Nanette Mallard. The Estate of Jamaal Mallard, Deceased, was opened by an *Order Approving Opening of Intestate Estate, Appointing of Administratrix, and Issuance of Letters of Administration* on February 23, 2016. Mr. Moore, upon being retained on March 22, 2017, had a duty to review the court file to determine the actions taken by the Chancery Court and previous counsel in the year preceding his entry of appearance. Mr. Moore testified he failed to read the order entered on February 23, 2016, which directed that the wrongful death claim was the only asset of the estate and that, in lieu of the Administratrix posting a bond, any recovery in the wrongful death claim was to be deposited into an estate account not to be disbursed without court order. He, therefore, failed to thoroughly and adequately prepare for the representation.

Mr. Moore also failed to comply with the Uniform Chancery Court Rules (hereinafter “UCCR”) when he failed to obtain approval of the settlement. As stated earlier, *Long v. McKinney* held that “where a recovery is had by the estate in the litigation, the proceeds must be administered and distributed through the chancery court in the same manner as other assets of the estate, and counsel for the estate must be paid from estate proceeds or assets, upon approval of the chancery court in the same manner as other debts and obligations of the estate.” *Long* at 175. Uniform Chancery Court Rule 6.10 (now 6.11) contains the provisions for “Petitions for Authority to Compromise Claims for Wrongful Death or Injury.” The Rule states:

- (A) Every petition for authority to compromise and settle a claim for wrongful death or injury shall set forth the facts in relation thereto and the reason for such compromise and settlement and the amount thereof.
- (B) ...Where counsel representing the petition has investigated the matter and advised settlement, counsel shall appear and give testimony touching the result of the investigation.

Rule 6.11, UCCR.

Mr. Moore also failed to comply with Uniform Chancery Court Rule 6.12(D) (now 6.13(D)) which directs that "if the parties make an agreement for a contingency fee, the contract or agreement of the fiduciary with the attorney must be approved by the Chancellor." Mr. Moore's failure to comply with the Uniform Chancery Court Rules demonstrates a lack of required legal knowledge and skill in violation of Rule 1.1, MRPC.

A Complaint Tribunal for the Supreme Court of Mississippi has stated that it is a violation of Rule 1.1, MRPC, when "the evidence showed a complete lack of competence regarding the rules of court and professional responsibility and compliance with the Orders of the Chancery Court." *Mississippi Bar v. Michael E. Winfield*, 2015-B-1430 (Miss. 2017). Therefore, Mr. Moore's failure to follow the Uniform Chancery Court Rules and Mississippi Rules of Professional Conduct, as well as his lack of compliance with the order of the Chancery Court to deposit the wrongful death settlement funds into an estate account not to be disbursed without court order, is sufficient evidence to show a lack of competence in violation of Rule 1.1, MRPC.

The Tribunal finds by clear and convincing evidence that Carlos E. Moore violated Rule 1.1 of the Mississippi Rules of Professional Conduct.

Rule 3.4(c), MRPC

Rule 3.4(c), MRPC, states that a lawyer shall not knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that an obligation exists. Under the Terminology section of the Mississippi Rules of Professional Conduct, the term "knowingly" denotes actual knowledge, and further denotes that a person's knowledge may be inferred from circumstances.

Chancellor Owens entered an *Order Approving Opening of Intestate Estate, Appointing of Administratrix, and Issuance of Letters of Administration* on February 23, 2016, in the Estate of Jamaal Mallard, Deceased. The Order stated that the only asset of the estate was the wrongful death claim. It further directed that, in lieu of the Administratrix posting a bond, "any recovery on behalf of the decedent and/or funds received on behalf of and by the estate shall be placed into an estate account

and not be disbursed without a court order.” Mr. Moore was not counsel of record at the time the aforementioned Order was entered, but he subsequently was retained as counsel. Mr. Moore testified that, when retained, he reviewed the docket sheet for the Estate of Jamaal Mallard, Deceased, but did not read the *Order Approving Opening of Intestate Estate, Appointing of Administratrix, and Issuance of Letters of Administration* and, therefore, did not know of the Chancery Court’s instructions to deposit the funds into an estate account. Instead of depositing the wrongful death settlement funds into an estate account as ordered, Mr. Moore deposited the funds into his IOLTA account.

Citing *Attorney U v. Mississippi Bar*, 678 So. 2d 963, 971 (Miss. 1996), the Bar contends that actual knowledge begins to merge with the “should have known” standard if the attorney deliberately tried to evade knowledge, arguing that Mr. Moore intentionally did not read the Order. While Mr. Moore should have known of the Order and its directives, there was insufficient evidence presented at trial that Mr. Moore deliberately tried to evade knowledge or intentionally did not read the Order. Further, it is not clear to the Tribunal that the Mississippi Supreme Court has adopted or merged the “should have known” standard with “knowingly” disobeying an obligation. According to the Terminology section of the Mississippi Rules of Professional Conduct, the term “knowingly” denotes actual knowledge. In the absence of clear case law defining that term differently, and in the absence of clear and convincing evidence that Mr. Moore evaded knowledge or intentionally did not read the Order, the Tribunal finds that Mr. Moore’s conduct, while giving rise to a violation of Rule 1.1, MRPC, does not give rise to a violation of Rule 3.4(c), MRPC.

The Tribunal reaches a similar conclusion as to the Bar’s allegations that Mr. Moore knowingly disobeyed Uniform Chancery Court Rule 6.10 and 6.12 (now 6.11 and 6.13, respectively). While his failure to comply with those rules was extremely careless, the Bar’s proof did not establish “knowing” disobedience by clear and convincing evidence.

Rule 1.15(b), MRPC

Rule 1.15(b), MRPC, states that upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this Rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property. Mr. Moore settled the wrongful death claim filed in the United States District Court for the Southern District of Mississippi, Northern Division, on or about September 21, 2018, for \$300,000.00. Those funds were deposited in Mr. Moore's IOLTA Account. Upon receipt of the funds, Mr. Moore failed to make any attempts to contact Jamuric Mallard to give notice. Jamuric Mallard was incarcerated at the time, so his whereabouts were known. However, Mr. Moore did not send any letters notifying Jamuric Mallard of the wrongful death settlement funds or serve him with any pleadings to approve or disburse the settlement funds, as no such pleadings were filed at that time. There is no evidence that Jamuric Mallard had actual notice of the receipt of wrongful death settlement funds in 2018 prior to Mr. Moore's disbursement of the full amount to Nanette Mallard from his IOLTA account. Therefore, Mr. Moore violated Rule 1.15(b), MRPC, by failing to promptly notify a third person of receipt of funds in which the third person has an interest.

On October 1, 2018, Nanette Mallard signed an Acknowledgement of Conclusion of Representation and Disbursement Authority and Direction, etc. which was drafted by Mr. Moore's office. The document outlined the disbursement of funds from Mr. Moore's IOLTA account as follows: attorney fees to Moore Law Group in the amount of \$65,000.00; expenses to Moore Law Group in the amount of \$11,000.00; attorney fees to Mike Carr in the amount of \$34,650.00; expenses to Mike Carr in the amount of \$708.50; lien to Oasis in the amount of \$6,950.00; and remainder to the heirs, consisting of Nanette Mallard in the amount of \$90,845.75 and Jamuric Mallard in the amount of \$90,845.75. Mr. Moore disbursed the portion belonging to Jamuric Mallard to Nanette Mallard from his IOLTA account.

Mr. Moore testified that he personally delivered the check for \$181,691.50 to Nanette Mallard in 2018. He stated that he told Nanette Mallard to keep Jamuric Mallard's portion of the funds until they could be disbursed to Jamuric, but did not assist her in setting up an estate account or give her any specific instructions on how to keep the funds.

More than two and a half years later, Jamuric Mallard's attorney contacted Mr. Moore regarding the whereabouts of Jamuric Mallard's portion of the wrongful death settlement proceeds and was told he would need to enter an appearance in the Estate of Jamaal Mallard, Deceased. On July 2, 2021, Jamuric Mallard, through counsel, filed a *Petition to Provide Accounting and Inventory*. One week later, on July 9, 2021, Mr. Moore transferred \$90,845.75 of his own personal funds into his IOLTA account and wrote a check to Jamuric Mallard for the same amount. Mr. Moore did not speak with Nanette Mallard prior to paying the funds to Jamuric Mallard, even though it is his testimony that he told her to deposit the funds. Mr. Moore testified that he read Rule 1.15 of the Mississippi Rules of Professional Conduct and determined that he had to pay it. Mr. Moore learned on January 11, 2022, during the Zoom hearing with Chancellor Owens that Nanette Mallard had converted the funds belonging to Jamuric Mallard to her own personal use.

In the case of *Mississippi Bar v. Henrietta Sweeney*, the Complaint Tribunal found, and the Supreme Court of Mississippi upheld, that Ms. Sweeney endorsed and deposited a check in the amount of \$6,600.65 into her trust account that was payable to an estate as proceeds from the sale of estate property. The Complaint Tribunal held that Ms. Sweeney misappropriated her client's property for her own use and benefit; that she should have been aware that the funds she received were not to be deposited in her trust account but instead into a separate account; and that she allowed assets of the estate to be sold without court approval. 849 So. 2d 884, 886 (Miss. 2003).

In the case of *Mississippi Bar v. Michael E. Winfield*, the Complaint Tribunal found that, in addition to failing to determine the proper heirs of the estate, Mr. Winfield violated Rule 1.15(b), MRPC, by failing to promptly notify the proper heirs or the person he believed to be an heir of the

funds in his possession. 2015-B-1430 (Miss. 2017). Mr. Winfield was further found to have violated Rule 1.15(b) by disbursing the funds to his client and not both people he believed to be the heirs.¹

Mr. Moore points out that he paid the \$90,845.75 owed to Jamuric Mallard on July 9, 2021. However, the Supreme Court of Mississippi has said “restitution by an attorney of funds previously misappropriated does not mitigate the offense.” *Cotton v. Mississippi Bar*, 809 So.2d 582, 587 (Miss. 2000 (quoting *Clark v. Mississippi Bar Association*, 471 So.2d 352, 357 (Miss. 1985)). “Even if the funds were replaced after only a short period, the client lost use of the funds for that time, giving rise to an actual injury.” *McIntyre v. Mississippi Bar*, 38 So.3d 617, 627 (Miss. 2010). “Furthermore, the potential for the client’s total loss of use of the funds made the potential for injury great.” *Id.* Mr. Moore improperly disbursed the wrongful death settlement proceeds belonging to Jamuric Mallard to Nanette Mallard on October 1, 2018. At that point, Jamuric Mallard lost use of those funds for more than two and a half years, which is an actual injury under *McIntyre*. Nanette Mallard converted those funds to her own personal use, making the potential for total loss great. Based on the above, the Tribunal finds by clear and convincing evidence that Mr. Moore violated Rule 1.15(b), MRPC.

Rule 8.4(d), MRPC

Rule 8.4(d), MRPC, states that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice. Mr. Moore was hired by Nanette Mallard on March 22, 2017, more than a year after the Estate of Jamaal Mallard, Deceased, was opened. Mr. Moore reviewed the docket sheet for the estate and was aware that the *Order Approving Opening of Intestate Estate, Appointing of Administratrix, and Issuance of Letters of Administration* was entered but did not read it. The order directed any recovery on behalf of the decedent and/or the estate be deposited into an estate account not to be disbursed without court order. Mr. Moore settled the wrongful death action for \$300,000.00 in September 2018 and deposited the funds into his IOLTA account. Mr.

¹ The egregiousness of the facts of *Winfield* go to the appropriate level of sanction; in Mr. Winfield’s case, a disbarment.

Moore returned to the Chancery Court to obtain an *Order Determining Heirship*, but did not seek approval of the wrongful death settlement or authority to disburse the funds. On October 1, 2018, Mr. Moore disbursed the wrongful death settlement funds in his IOLTA account to himself, his co-counsel, and a lienholder. Mr. Moore further disbursed the remaining wrongful death settlement funds to Nanette Mallard in the amount of \$181,691.50. Half of those funds disbursed to Nanette Mallard (\$90,845.75) belonged to Jamuric Mallard. Two and a half years later, Jamuric Mallard was forced to hire his own attorney to determine the whereabouts of his portion of the wrongful death settlement funds, and only received those funds after his attorney filed a *Petition to Provide Accounting and Inventory* in the Estate of Jamaal Mallard, Deceased, and a *Complaint* in the Circuit Court of Hinds County, Mississippi, to address the other disbursements paid from the settlement funds. Additional attorney work and time with two courts was necessary to rectify Mr. Moore's misconduct and is a violation of Rule 8.4(d), MRPC. The Tribunal finds by clear and convincing evidence that Mr. Moore violated Rule 8.4(d), MRPC.

Appropriate Discipline

Based upon the foregoing findings of fact and conclusions of law, the Complaint Tribunal must determine what discipline is to be imposed upon Carlos E. Moore. In order to determine the appropriate level of discipline, the Complaint Tribunal considers the nine factors outlined in *Liebling v. Mississippi Bar*, 929 So. 2d 911, 918-920 (Miss. 2006). The nine factors are:

- 1) Nature of the misconduct involved;
- 2) The need to deter similar misconduct;
- 3) Preservation of dignity and reputation of the legal profession;
- 4) Protection of the public;
- 5) Sanctions imposed in similar cases;
- 6) The duty involved;
- 7) The lawyer's mental state;
- 8) Actual or potential injury resulting from the misconduct; and

- 9) Existence of aggravating or mitigating factors.

Within these criteria, the Court has used the American Bar Association Standards for Imposing Lawyer Sanction ("ABA Standards") which include:

- a) The duty violated;
- b) The lawyer's mental state;
- c) The actual or potential injury resulting from the misconduct; and
- d) The existence of aggravating or mitigating factors.

L.S. v. Miss. Bar, 649 So. 2d 810, 815 (Miss. 1997); *Goodsell v. Miss. Bar*, 667 So. 2d 7 (Miss. 1996).

Mr. Moore had a duty to represent his client competently and thoroughly. Instead, he showed disregard for the orders previously entered by the Chancery Court and the Uniform Chancery Court Rules regarding wrongful death settlements on behalf of estates. Mr. Moore further showed a disregard for his duty to safeguard and properly disburse funds placed in his IOLTA account belonging to third persons. Other than not intentionally violating the Chancery Court Order, the nature of Mr. Moore's conduct and his mental state are intertwined in that Mr. Moore has never indicated his actions in this case were anything other than intentional.

There is certainly a need to deter similar misconduct and protect the public. In the case of *Mathes v. Mississippi Bar*, the court imposed a sanction of six months for violation of Rule 3.4(c), disobeying an obligation under the rules of a tribunal. 637 So. 2d 840, 849 (Miss. 1994). The Court found that "the damage such disobedience causes to the reputation of the legal profession and the need to protect the public from attorneys who would fail to respect a court's authority" is self-evident. *Id.* at 848. Additionally, there is "no more damaging evidence as to a lawyer's fitness to practice law than mishandling a trust account." *McIntyre v. Mississippi Bar*, 38 So.3d 617, 627 (Miss. 2010).

In the instant case, there was an actual injury and a potential for greater injury. Jamuric Mallard was without the use of funds belonging to him in the amount of \$90,845.75 for more than two and half years. *McIntyre* stated that "even if the funds were replaced after only a short period, the

client lost use of the funds for that time, giving rise to an actual injury." *Id.* "Furthermore, the potential for the client's total loss of use of the funds made the potential for injury great." *Id.* Nanette Mallard converted the funds disbursed to her by Mr. Moore from his IOLTA account for Jamuric Mallard to her own personal use in 2018. Had Mr. Moore not possessed the means to pay the \$90,845.75 owed to Jamuric Mallard, a total loss of use of the funds and greater injury would have resulted.

Sanctions have been imposed in similar cases. *Mathes v. Mississippi Bar* involved a six-month suspension for violation of Rule 3.4(c) involving a court order. *Mathes* at 849. *Mississippi Bar v. R. Charles Robb* involved a six-month suspension for violation of Rule 3.4(c) involving failure to comply with the Uniform Chancery Court Rules. *Robb* at 624.

In cases involving misappropriation of funds held in trust, the sanctions range from six-month suspensions to disbarment when the attorney intentionally misappropriates the funds of others. *Mississippi Bar v. Robert Bryan Ogletree*, 226 So.3d 79 (Miss. 2015). In *Mississippi Bar v. Henrietta Sweeney*, the Supreme Court of Mississippi imposed a three-year suspension for misappropriation of funds belonging to an estate. *Sweeney* at 889. Ms. Sweeney endorsed and deposited a check in the amount of \$6,600.95 into her trust account that was payable to an estate as proceeds from the sale of estate property. Ms. Sweeney, then, misappropriated her client's property to her own use and benefit. The Complaint Tribunal in the *Sweeney* case imposed a one-year suspension, but the Supreme Court of Mississippi increased the sanction to three years on appeal. The case of *Mississippi Bar v. Michael E. Winfield* resulted in disbarment for violations of several rules including Rule 1.1, 1.15(b), and 8.4(d). *Winfield*, 2015-B-1430 (Miss. 2017). Mr. Winfield failed to properly determine the heirs of an estate, settled a Black Farmers Claim on behalf of the estate, failed to notify the heirs of the receipt of funds, then disbursed the proceeds of the settlement to his client, who was not a rightful heir. ABA Standard 4.12 also provides that suspension is generally appropriate when a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client.

An aggravating factor present in this case is Mr. Moore's prior discipline for similar misconduct. On September 30, 2019, an *Agreed Opinion and Judgment* was entered publicly reprimanding Mr. Moore in Supreme Court of Mississippi Cause Number 2018-B-1485. In that case, Mr. Moore represented a building contractor with a BP oil spill claim. The client took out a loan in 2013 to buy a bulldozer. The loan was secured by a security interest in the bulldozer and an assignment in the BP oil spill claim. Mr. Moore received a copy of the assignment and signed an acknowledgment. In 2016, settlement proceeds were disbursed to Mr. Moore's client without payment of the lien. Mr. Moore received a public reprimand for violations of Rules 1.15(a) and 1.15(b), MRPC.

Another aggravating factor is Mr. Moore's refusal to take responsibility for his misconduct and his lack of remorse. Through his testimony, Mr. Moore has indicated his actions were intentional and believes he has done nothing wrong. This aspect was particularly troubling to the members of the Tribunal.

Mr. Moore may argue that payment of the \$90,845.75 to Jamuric Mallard from his own personal funds in 2021 is a mitigating factor. As has already been discussed, "restitution by an attorney of funds previously misappropriated does not mitigate the offense." *Cotton v. Mississippi Bar*, 809 So.2d 582, 587 (Miss. 2000) (quoting *Clark v. Mississippi Bar*, 471 So. 2d 352, 357 (Miss. 1985)).

Mr. Moore has indicated that he will offer the following as mitigating factors in this case: his service to the Mississippi Bar as a member of the Ethics Committee, as a Bar Commissioner, and as Chair of the Workers' Compensation Committee; his service to the National Bar Association, including his time as President for the 2021-2022 year; and his willingness to take on controversial cases. None of these facts negate Mr. Moore's misconduct in this case. If anything, Mr. Moore's service on the Mississippi Bar's Ethics Committee should have heightened Mr. Moore's understanding and awareness of his responsibilities under the Mississippi Rules of Professional Conduct.

JUDGMENT

THEREFORE, after having considered the *Liebling* factors and the aggravating and mitigating factors, it is the Judgment of this Tribunal that Carlos E. Moore shall be **SUSPENDED FROM THE PRACTICE OF LAW FOR A PERIOD OF ONE YEAR**, effective from the date the Opinion and Judgment is entered in accordance with the Rules of Discipline for the Mississippi State Bar.

Pursuant to Rule 8.6, MRD, the Clerk of the Supreme Court of Mississippi shall immediately forward an attested copy of this Opinion and Judgment to all Circuit and Chancery Court Judges in Grenada County, Mississippi, with instructions to the senior judges of each of these courts to include a copy in the minutes of each respective court.

Additionally, the Clerk of the Supreme Court of Mississippi shall immediately forward an attested copy of this Opinion and Judgment to each member of the Complaint Tribunal; to counsel for all parties; to the Executive Director of the Mississippi Bar; to the Clerks of the United States Bankruptcy Courts for the Northern and Southern Districts of Mississippi; to the Clerks of the United States District Courts for the Northern and Southern Districts of Mississippi; to the Clerk of the United States Court of Appeals for the Fifth Circuit; to the Clerk of the United States Supreme Court and to the Tennessee Board of Professional Responsibility.

The Complaint Tribunal hereby enjoins Mr. Moore from practicing law in the State of Mississippi; from holding himself out as an attorney at law; from performing any legal services for others; from directly or indirectly accepting any fee for legal services; from appearing in any representative capacity in any legal proceeding or Court of the State of Mississippi; from holding himself out to others or using his name, in any manner, with the phrases "attorney at law," "attorney," "counselor at law," "counsel," or "lawyer."

Mr. Moore shall immediately notify each of his clients in writing of his suspension, inform each client of his consequent inability to act as an attorney, and advise each client to promptly substitute another attorney or seek legal advice elsewhere. At the request of any client, Mr. Moore shall promptly return all files, papers, money, or other property in his possession belonging to his

Mr. Moore must apply for reinstatement pursuant to the Rules of Discipline for the Mississippi State Bar. In order for Mr. Moore to be eligible for reinstatement, he must have complied with all terms of this Opinion and Judgment.

This Opinion and Judgment shall remain in full force and effect until further Order of the Supreme Court of Mississippi.

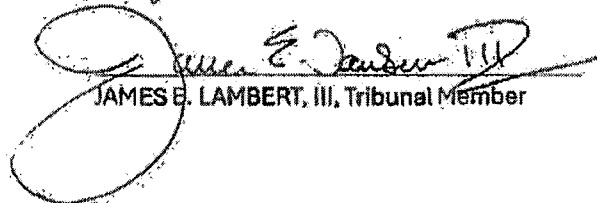
The violation of any term of this Opinion and Final Judgment may be considered as contempt of this Complaint Tribunal.

Each member of the Complaint Tribunal concurs in this Opinion and Final Judgment by affixing his/her signature below.

SO ORDERED ON THIS THIS 31st day of December, 2024.


DAL WILLIAMSON, Presiding Judge


JACKYE BERTUCCI, Tribunal Member


JAMES E. LAMBERT, III, Tribunal Member