

**DISTRICT OF COLUMBIA COURT OF APPEALS  
BOARD ON PROFESSIONAL RESPONSIBILITY**



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**In the Matter of** :  
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**KISSINGER N. SIBANDA, ESQUIRE** : **Disciplinary Docket No. 2022-D170**  
 :  
**Respondent,** :  
 :  
**An Active Member of the Bar of** :  
**the District of Columbia Court of Appeals** :  
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**Bar Number 1017426** :  
**Date of Admission: December 9, 2013** :  
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**SPECIFICATION OF CHARGES**

The disciplinary proceedings instituted by this petition are based upon conduct that violates the standards governing the practice of law in the District of Columbia as prescribed by D.C. Bar R. X and XI, § 2(b). Jurisdiction for this disciplinary proceeding is prescribed by D.C. Bar R. XI. Pursuant to D.C. Bar R. XI, § 1(a), jurisdiction is found because:

1. Respondent is a member of the District of Columbia Bar, having been admitted on December 9, 2013, and subsequently assigned Bar number 1017426.

The facts giving rise to the charges of misconduct are as follows:

2. Respondent lives in and has an office in New Jersey, but he is only licensed in the District of Columbia.

3. On April 16, 2022, Respondent responded to a Craigslist ad posted by Karim Annabi. Mr. Annabi was seeking a litigation attorney to assist him with a federal case against New York University Stern School of Business.

4. Between April 16-17, 2022, Respondent and Mr. Annabi exchanged emails about the potential case and to set up a consultation call. Mr. Annabi sent Respondent information about his case in preparation for the consultation and asked Respondent if he would be willing to accept the representation on a contingency basis. Respondent told Mr. Annabi that he would consider taking the case on a contingency basis, but the consultation would cost \$200. Eventually, Respondent reduced the consultation fee to \$125, which Mr. Annabi paid via PayPal.

5. On April 17, 2022, Respondent and Mr. Annabi met via Zoom for an initial consultation. After the consultation, Respondent sent Mr. Annabi a draft retainer agreement; however, the agreement called for Mr. Annabi to pay Respondent an hourly fee for the representation rather than a contingency fee. Respondent and Mr. Annabi could not agree on the terms of the representation, and Mr. Annabi never signed the agreement.

6. On May 9, 2022, Mr. Annabi filed a complaint *pro se* in the U.S. District Court for the Southern District of New York against New York University Stern School of Business. The complaint alleged, *inter alia*, that NYU School of Business breached implied contracts and engaged in deceptive advertising practices.

7. On June 23, 2022, Joseph DiPalma entered his appearance on behalf of NYU.

8. On August 2, 2022, Mr. Annabi emailed Respondent to tell him that he had filed a civil case against Respondent seeking \$1,000 and would be hiring a process server. The complaint alleged “Breach of Contract or Warranty for \$1,000.00 with interest from 04/17/2022.” Although Mr. Annabi filed the case on August 2, 2022, the complaint was not served on Respondent until on or about November 25, 2022.

9. On August 2, 2022, Respondent replied to the email from Mr. Annabi, and copied Mr. DiPalma, stating, in part:

A. “Your lawsuit against NYU, referenced above, has fundamental flaws in law and fact – and I brought that to your attention when I conferenced with you via zoom.”

B. “[I] will be forced to bring this issue to the federal judge handling this case as it speaks to your credibility in this lawsuit. There are many inconsistencies with your claim against NYU.”

C. “However, as I stated during our consult, your legal assertions are mostly frivolous and not based on any established or existing law.”

10. On August 3, 2022, Respondent filed a request to be added as an “Interested Party” in the case. In his request, Respondent stated the following:

- A. “Soon after, Mr. Annabi was unsatisfied with my legal advise [*sic*] – that essentially his legal assertions of ‘deceptive advertising etc’ [*sic*] are unfounded in law and frivolous.”
- B. “I believe that the facts in this matter, before this Court (SDNY), and my dispute with Mr. Annabi, share the same nexus of facts and call to question the frivolous nature of Mr. Annabi’s lawsuit and current legal assertions.”
- C. “In addition, defendant’s well-written ‘motion to dismiss’ echoes and sums up my concerns and the warnings I shared with Mr. Annabi during our consultation...”
- D. “Mr. Annabi’s legal residency should be interrogated by this Court because he has, in his own words, filed a lawsuit against me in Jamaica, Queens, New York and yet he is using a United Kingdom address in this aforementioned matter – as an assertion of diversity citizenship.”

11. On August 3, 2022, the court denied without prejudice Respondent’s request to be added as an interested party because Respondent failed to satisfy both the procedural and substantive standards for intervention. The court also stated, “While Mr. Sibanda is free to follow the public proceeding in this case, he should not file papers on ECF as he is not a party or representative of a party in this action.”

Despite the court's ruling, Respondent was still listed as an interested party on the electronic docket.

12. Respondent continued to exchange emails with Mr. Annabi. Each time Respondent emailed Mr. Annabi, he would add Mr. DiPalma to the "cc" line. In these exchanges, Respondent referred to Mr. Annabi as a "racist" and "antisemite," accused Mr. Annabi of committing perjury, and threatened Mr. Annabi with "Rule 11" sanctions for his filings in the small claims action. Respondent copied Mr. DiPalma on at least eight emails to Mr. Annabi.

13. Once Respondent became aware of Disciplinary Counsel's investigation, he began copying Disciplinary Counsel on his email exchanges with Mr. Annabi.

14. On February 4, 2023, Mr. Annabi emailed an unfiled "sanction motion" to Respondent, Mr. DiPalma, and Mr. DiPalma's associate that sought sanctions against Respondent for a non-exhaustive list of reasons including filing papers to harass Mr. Annabi, making frivolous accusations and defenses without evidentiary support, perjury, and engaging in fraud before the court. In his email, Mr. Annabi simply said, "Please see the attached motion." He did not say that he had filed the motion, and the motion did not appear in the electronic case file.

15. On February 6, 2023, Respondent filed a letter with the District Court, via ECF, requesting the opportunity to respond to Mr. Annabi's sanctions motion if

he filed it. In his letter, Respondent described the sanctions motion as “an unfiled motion.” Respondent emailed a copy of the motion to the judge’s chambers to be included as an exhibit to his letter.

16. On February 7, 2023, District Court judge Lewis Liman issued an order directing the Clerk of Court to strike Respondent’s February 6, 2023 filing from the docket. On February 10, 2023, Judge Liman issued an order clarifying that Respondent’s request to be added as an “interested party” had been denied on August 3, 2022, and that Respondent should not be listed as an “interested party” on the docket. Judge Liman stated, “The Court ordered Mr. Sibanda not to file papers on ECF in this action as he is not a party to or a representative of a party in the case, an order that Mr. Sibanda has since violated.”

17. Respondent violated the following Rules of the D.C. Rules of Professional Conduct and/or the provisions of the New York Rules of Professional Conduct<sup>1</sup> in effect at the time:

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<sup>1</sup> Under D.C. Rule 8.5(b)(1), for alleged misconduct “in connection with a matter pending before a tribunal the rules to be applied shall be the rules of the jurisdiction in which the tribunal sits, unless the rules of the tribunal provide otherwise.” Here, some of Respondent’s alleged misconduct was in connection with a matter before the U.S. District Court for the Southern District of New York, which sat in New York and applied the New York Rules of Professional Conduct. *See* Joint Local Rules, S.D.N.Y. and E.D.N.Y., Local Civil Rule 1.5, available at [https://www.nysd.uscourts.gov/sites/default/files/local\\_rules/2021-10-15%20Joint%20Local%20Rules.pdf](https://www.nysd.uscourts.gov/sites/default/files/local_rules/2021-10-15%20Joint%20Local%20Rules.pdf). Accordingly, the New York Rules apply to some of Respondent’s alleged misconduct.

Nonetheless, the charged New York Rules are substantively the same as the corresponding D.C. Rules. Accordingly, should the D.C. Rules be deemed to apply to all

A. Rule 1.6(a) in that Respondent knowingly and without authority revealed confidential information and/or secrets of Mr. Annabi;

B. Rule 1.18(b) in that Respondent knowingly and without authority revealed confidential information and/or secrets of a prospective client, Mr. Annabi; and

C. Rule 8.4(d), in that Respondent engaged in conduct prejudicial to or seriously interfering with the administration of justice.

Respectfully submitted,

*/s/Hamilton P. Fox, III*

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Hamilton P. Fox III  
Disciplinary Counsel

*Dru M. Foster*

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Dru M. Foster  
Assistant Disciplinary Counsel

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of Respondent's alleged misconduct, he violated D.C. Rules 1.6(a), 1.18(b), and 8.4(d) for substantively the same reasons.

**VERIFICATION**

I, Dru M. Foster, Assistant Disciplinary Counsel for the District of Columbia,  
do affirm that I verily believe the facts stated in the petition to be true.

A handwritten signature in black ink, appearing to read "Dru M. Foster", written in a cursive style.

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Dru M. Foster

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**PETITION INSTITUTING FORMAL DISCIPLINARY PROCEEDINGS**

A. This Petition (including the attached Specification of Charges which is made part of this Petition) notifies Respondent that disciplinary proceedings are hereby instituted pursuant to Rule XI, § 8(c), of the District of Columbia Court of Appeals’ Rules Governing the Bar (D.C. Bar R.).

B. Respondent is an attorney admitted to practice before the District of Columbia Court of Appeals on the date stated in the caption of the Specification of Charges.

C. A lawyer member of a Hearing Committee assigned by the Board on Professional Responsibility (Board) pursuant to D.C. Bar R. XI, § 4(e)(5), has approved the institution of these disciplinary proceedings.

**D. Procedures**

(1) **Referral to Hearing Committee** - When the Board receives the Petition Instituting Formal Disciplinary Proceedings, the Board shall refer it to a Hearing Committee.

(2) **Filing Answer** - Respondent must respond to the Specification of Charges by filing an answer with the Board and by serving a copy on the Office of Disciplinary Counsel within 20 days of the date of service of this Petition, unless the time is extended by the Chair of the Hearing Committee. Permission to file an answer after the 20-day period may be granted by the Chair of the Hearing Committee if the failure to file an answer was attributable to mistake, inadvertence, surprise, or excusable neglect. If a limiting date occurs on a Saturday, Sunday, or official holiday in the District of Columbia, the time for submission will be extended to the next business day. Any motion to extend the time to file an answer, and/or any other motion filed with the Board or Hearing Committee Chair, must be served on the Office of Disciplinary Counsel at the address shown on the last page of this petition.

(3) **Content of Answer** - The answer may be a denial, a statement in exculpation, or a statement in mitigation of the alleged misconduct. Any charges not answered by Respondent may be deemed established as provided in Board Rule 7.7.

(4) **Mitigation** - Respondent has the right to present evidence in mitigation to the Hearing Committee regardless of whether the substantive allegations of the Specification of Charges are admitted or denied.

(5) **Process** - Respondent is entitled to fifteen days' notice of the time and place of hearing, to be represented by counsel, to cross-examine witnesses, and to present evidence.

E. In addition to the procedures contained in D.C. Bar R. XI, the Board has promulgated Board Rules relating to procedures and the admission of evidence which are applicable to these procedures. A copy of these rules is being provided to Respondent with a copy of this Petition.

**WHEREFORE**, the Office of Disciplinary Counsel requests that the Board consider whether the conduct of Respondent violated the District of Columbia Rules of Professional Conduct, and, if so, that it impose/recommend appropriate discipline.

*/s/ Hamilton P. Fox, III*

Hamilton P. Fox, III  
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