



General Legal Council

**General Legal Council office
High Court of Belize
Regent Street,
Belize City
Belize C.A**

December 03rd, 2024

Miss Trienia Young
Registrar
Supreme Court of Belize
Treasury Lane
Belize City
Belize

Dear Madam Registrar,

Re: Complaint 5 of 2024- Bobbie Cain v Norman Rodriguez

We write in relation to the captioned matter.

In accordance with section 17 (2) of the Legal Profession Act Cap 320 Revised Edition 2020, the General Legal Council hereby submits the enclosed decision issued in Complaint 5 of 2024- Bobbie Cain v Norman Rodriguez.

Thank you for your kind attention to this matter.

Yours faithfully,

A handwritten signature in blue ink that reads "Wallace".

Kimberly Wallace
Secretary
Bar Association of Belize/ General Legal Council

Encl: Decision of Complaint 5 of 2024

Contact us: Tel: (501) 227-0818/614-5157; Email: secretarybelizeglc@gmail.com

GENERAL LEGAL COUNCIL

IN THE MATTER OF THE LEGAL PROFESSION ACT

Complaint No. 5 of 2024

BETWEEN:

BOBBIE CAIN

COMPLAINANT

and

NORMAN RODRIGUEZ

ATTORNEY-AT-LAW

PANEL:

Mr. Justice Rajiv Goonetilleke (Chair)

Mrs. Magali Marin-Young SC

Mrs. Cheryl-Lynn Vidal SC

Ms. Vanessa Retreage Ms.

Samantha Matute

Mr. Adler Waight

Date of Hearing: 8th November
2024

Appearances

Bobbie Cain, the Complainant (In Person) and represented by Ms. Paulette Elrington

Norman Rodriguez, the Attorney-at-Law (In Person) and represented by Hubert Elrington, SC

DECISION

Introduction

1. This is the General Legal Council's (**Council's**) decision on a complaint brought by Ms. Bobbie Cain (**Ms Cain**), who is a civil servant resident in the United States of America who also resides at No. 3 Caesar Ridge Road, Belize City, when she visits Belize, against Attorney-at-Law, Norman Rodriguez (**Mr. Rodriguez**), a sole practitioner practicing as Rodriguez & Associates.
2. This complaint against Mr. Rodriguez, as contained in the Form of Application against an Attorney signed by Ms. Cain together with Form of Affidavit sworn by Ms. Cain, both dated the 28th day of March 2024, alleges that Mr. Rodriguez behaved in a manner unbecoming of a person in his profession and that he is guilty of delay in performing certain legal work, namely the filing of a civil claim in the High Court against a contractor for breach of contract, and that Mr. Rodriguez refused to refund monies paid to him.
3. Ms. Cain alleges that she retained Mr. Rodriguez in January 2020 to represent her in a lawsuit against a contractor. She states that from February 2020 to 28th November 2023, she kept asking for an update on her case and a refund, and she relentlessly reminded Mr. Rodriguez of the time constraints of her case. Ms. Cain states that Mr. Rodriguez kept telling her that he could not find where the contractor lived and that in November 2023, she visited his office and gave him an address where he could find the contractor, and it was not until the 18th March 2024 that Mr. Rodriguez filed her case.

Evidence in the Complaint

4. Ms. Cain produced a Claim Form signed by her dated the 22nd of November 2023, it bore the signature block for Mr. Rodriguez, but there was no signature of Mr. Rodriguez. That Claim Form was also accompanied by a Statement of Claim purportedly signed on the 18th of November 2014, and it bore the signatures of Ms. Cain and Mr. Rodriguez. She also produced WhatsApp text exchanges between herself and Mr. Rodriguez from March 2020 to 28th November 2023.
5. Mr. Rodriguez produced a note taken by his office assistant on Wednesday, the 15th of November 2023, which stated that Ms. Cain came into the office and left an address of 8180 Giles St, Belize City, St. Martins Area. The note also states; "*The person drives a*

white truck. He usually comes home after 7:00 p.m. and leaves early in the morning. She stated that she will send a picture of the person to Mr. Rodriguez phone.” He also produced passport pages (2) of a US passport with Belize Immigration Entry and Exit stamps (11/10/18 to 20/10/18; 7/9/19-14/7/19; 10/01/20; 20/04/2022 and others, the date of which could not be deciphered). Lastly, Mr. Rodriguez produced the same Claim Form that Ms. Cain did, but his version bore both of their signatures, and he also produced the same Statement of Case that Ms. Cain did, both uploaded at the Senior Courts filing system on the 18th of March 2024.

6. It is noted that Mr. Rodriguez did not provide any documentary or written evidence to this Council showing that he had texted or written to Ms. Cain to request the address of the contractor nor critical dates of an oral agreement said to have taken place sometime either in 2018 or 2019.
7. On the 28th of March 2024, Ms. Cain filed this Complaint and on the 8th of November 2024, the Council heard the matter, hearing the evidence of the Complainant and the Respondent, and consequently reserved its decision at the close of the hearing.

Evidence of the Complainant

8. In addition to the Form and the Affidavits and Documents submitted to the Council by Ms. Cain, Ms. Cain also gave oral evidence at the hearing. From both the oral and documentary evidence provided by Ms. Cain, her evidence can be summarized as follows:
 - a. Ms. Cain confirmed that she engaged Mr. Rodriguez in January 2020 to file a civil claim against Mr. Ainsworth Jones (**Mr. Jones**) to recover damages for breach of contract for the construction of a ferro concrete building at her property at 51 Caesar Ridge Road, Belize City, which he failed to build in breach of his oral agreement made 5th of March 2014 with her. She paid Mr. Jones Sixty-one Thousand Dollars on the same day of the oral agreement and made a further deposit of Sixteen Thousand Five Hundred Dollars.
 - b. Mr. Jones did not build the building as he agreed to do. Sometime in 2018, she met Mr. Jones while she visited Belize City and asked him to refund the money she had

paid him since he failed to build the house. On the same day, Mr. Jones promised (verbally) to build a concrete fence around the property and a garage in addition to his contracted work.

- c. Mr. Jones did not fulfill his oral promise, and Ms. Cain then engaged Mr. Rodriguez to file a claim against Mr. Jones to recover the monies she had paid him. She paid Mr. Rodriguez \$3,000.00 in or about January 2020. Thereafter, she stated that she kept texting and calling him via WhatsApp to seek updates on Mr. Rodriguez's work progress.
- d. From the WhatsApp text messages that Ms. Cain produced, she enquired as to updates on her case on the following dates, to which we saw no response from Mr. Rodriguez:
 - (1) 27th of March 2020
 - (2) 10th of April 2020
 - (3) 5th of May 2020
 - (4) 7th of August 2020
 - (5) 21st August 2020, and
 - (6) 12th October 2020.
- e. On 17th February 2021, Mr. Rodriguez confirmed that he received Ms. Cain's physical address and requested an email address as he requested information from her for the first time. This was a whole 12 months after he was first retained.
- f. On the 1st of March 2021, Ms. Cain texted Mr. Rodriguez to enquire if he had sent the list of information he needed from her.
- g. On 17th March 2021, Ms. Cain also texted Mr. Rodriguez to request his email so that she could send him pictures of the unfinished house and the information he requested. Thereafter, she texted Mr. Rodriguez several times in September 2021 to request to speak to him.
- h. On 13th October 2021, Ms. Cain texted Mr. Rodriguez to say that she had not received an email from him and to ask, "*Please, let us have no more delays.*"

- i. On the following days, Ms. Cain texted Mr. Rodriguez to request updates on her case:
- (1) 27th of November 2021,
 - (2) 16th and 23rd of December 2021,
 - (3) 26th of April 2022,
 - (4) 26th of May 2022, and
 - (5) 13th of June 2022
- j. She then texted him on 23rd June 2022, to tell him that she had made inquiries. She confirmed that he still had not filed her case and that she wanted a refund. The refund request was repeated on 7th July 2022, and there were several exchanges in July 2022 in which Mr. Rodriguez agreed to refund the monies but needed time.
- k. Between the 13th of June and the 1st of August 2022, Ms. Cain informed Mr. Rodriguez that “The last conversation I *and my sister had with Mr. Jones was in 2018 and not 2019.*” This was to assist him with the date when Mr. Jones promised to build the ferro concrete fence in addition to building the house she had contracted him to do.
- l. Then on the 1st of August 2022, Ms. Cain texted Mr. Rodriguez to say “*Why my case is not yet file. We spoke 2 weeks ago and you said you will file it...*”
- m. Ms. Cain also texted on the following dates to enquire about her case:
- (1) 12th of October 2022; and
 - (2) 6th of November 2022
- n. On the 29th of June 2023, Ms. Cain texted Mr. Rodriguez to say that she had emailed a copy of her scanned passport and that we are using “*February 2019.*”
- o. Still not giving up on hope, Ms. Cain then texted on 13th September 2023, and the 15th and 28th November, 2023, to inquire about her case and why it had not been filed.
- p. The Claim Form and Statement of Claim were uploaded on the 18th of March 2024.

Evidence of the Attorney

9. Mr. Rodriguez, after being affirmed, gave oral evidence at the hearing. His evidence can be summarized as follows:

- a. Mr. Rodriguez confirmed his engagement and his receipt of \$3,000.00 retainer.
- b. Mr. Rodriguez says he does not believe that he failed Ms. Cain because the matter is not statute-barred as she believes, and he requested certain information from her, which he did not get on time.
- c. Mr. Rodriguez indicated that he had requested certain information from Ms. Cain, which was critical information for him to draft and file the claim. That information was:
 - (1) the address of Mr. Ainsworth Jones, and
 - (2) the precise date when Mr. Jones orally conceded that he had breached the oral contract to build the ferro concrete house that he agreed to build and was indebted to Ms. Cain for the monies paid, and that to compensate her, he would do additional work for her by building a concrete fence around her house at 51 Caesar Ridge Rd, Belize City.
- d. Mr. Rodriguez produced a copy of a passport which he said was Ms. Cain's (but which Ms. Cain said was her sister's US passport) showing Belize Immigration Entry and Exit stamps, which he received in July 2023, and notes from his secretary dated 15th November 2023, indicating when she had received Mr. Jones's address.
- e. When asked whether the date of the 18th of November of 2014 on the Statement of Claim that both he and Ms Cain produced was a typographical error, Mr. Rodriguez acknowledged that it was a typographical error and that the date should be 2023. When asked if he had shared the earlier drafts of the Claim and Statement of Claim with Ms. Cain for her review, he said he did not do so.

- f. Mr. Rodriguez admitted that since November 2023, he had all the information he needed to have drafted and filed the claim for Ms Cain. Still, he could not account for and could not explain the lapse of some four months before he got around to uploading the Claim Form and the Statement of Claim by Ms. Cain against Mr. Jones, in March 2024. Mr. Rodriguez admitted to this being an inexplicable delay on his part.
- g. He explained that in June 2022, Ms. Cain, frustrated at his delay in filing her claim against Mr. Jones, asked him for a refund of the retained money, and he had asked her for time to refund it. In one of their conversations, she apparently had a change of heart and asked to continue to act, and she agreed to allow him more time to file her claim.
- h. During cross-examination, he was asked how he could not produce a WhatsApp text in response to Ms. Cain's inquiries about updates or to prove that he had requested the information he said he had. Mr. Rodriguez said he had spoken with Ms. Cain on the phone but had not sent text messages.
- i. Mr. Rodriguez said that he was prepared to refund her a portion of the money but not all of it since he spent time drafting the claim and statement of claim.
- j. Mr. Rodriguez did say that he did not think that Ms. Cain's case is statute-barred as she believes it to be, but admitted to not having taken the time to explain this legal position to her. While he uploaded both the Claim and Statement of Claim in March 2024, Mr. Rodriguez has to date not served them on Mr. Jones as Ms. Cain ended the professional relationship.

Law

- 10. Attorneys-at-law hold a special position in society. They act as stewards and guides for those who retain their services. They help lay clients navigate the labyrinth of the legal system, and as such, those clients place particular trust in them.
- 11. Attorneys-at-law play a vital role in the justice system and the administration of justice.
- 12. Consequently, attorneys-at-law are expected to maintain the highest ethical standards as guardians of the law.

13. Attorneys-at-law must be guided by the Legal Profession (Code of Conduct) Rules at minimum.¹
14. Attorneys-at-law who do not meet these standards may expect severe sanctions, depending on the nature of the complaint.
15. Even momentary or inadvertent lapses may be visited with condign punishment.
16. Attorneys-at-law should treat all client matters with the attention, sensitivity, care and the promptness that they deserve, a standard this Council will insist on.
17. In the facts and circumstances set out above, the Council finds that Mr. Rodriguez has breached:
 - a. **Rule 28-(1)** *An attorney shall deal with his client's business with all due expedition and shall, whenever reasonably so required by the client, provide him with full information as to the progress of the client's business.*
(2) It is improper for an attorney to accept instructions in a matter unless he can handle it without undue delay; and
 - b. **Rule 69.** *In the performance of his duties an attorney shall not act with inexcusable or undue delay, negligence or neglect.*
18. As noted by Chief Justice Sykes writing extra-judicially:

“The object of..[Rule 28]...is plain enough. It...[promotes]...efficiency and speed when dealing with the client's business and it also reinforces the principle of informed decision making. That is, the client must have full and complete information in order to decide how to manage his affairs.”²

Discussion and Analysis

¹¹ Rule 4(1): An attorney shall uphold at all times the standards set out in these Rules.

² The Ethical Lawyer: A Caribbean Perspective, Chapter 6 “Wanted: Due Skill and Care” Attorneys’ Liability for Negligence

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19. The Council's deliberations have been limited to the information presented and the sworn oral evidence at the hearing.
20. This Council accepts Ms. Cain's evidence as true. The Council finds that after Ms. Cain retained and paid Mr. Rodriguez \$3000.00 sometime in January 2020, she sent several WhatsApp texts to Mr. Rodriguez between March and October 2020, seeking an update on her matter. Only 12 months after being retained did Mr. Rodriguez request information from Ms. Cain, which he purportedly needed to file the claim. At no point did Mr. Rodriguez request further information from her until 2021.
21. Then, in or about February 2021, Mr. Rodriguez requested an email address from Ms. Cain to send some queries for his needed information. Ms. Cain had to follow up in March with Mr. Rodriguez to see if he had sent her the list of information he needed. After that, she asked him for his email address to send him the requested information, and from the evidence, she tried several times in September 2021 to speak to him. Ms. Cain then implored him, "*Please, let us have no more delay.*" At this point, Ms. Cain still had not given up on Mr Rodriguez, though more than 12 months had lapsed, and no claim had been filed. She continued to follow up in November and December of 2021 and April, May, and June of 2022.
22. Finally, after several follow-up WhatsApp texts, Ms. Cain got exasperated and requested a refund in July 2022. As incredulous as it would appear to a fly on the wall, Ms. Cain gave Mr. Rodriguez more time to file her claim. She thereafter continued to follow up, holding on to Mr. Rodriguez's evident promise that he would get around to filing her claim.
23. Thereafter, it appears that when Mr. Rodriguez started requesting the precise date when the second oral agreement was made between Ms. Cain and Mr. Jones, he was provided with the relevant date of "*February 2019*", in June 2023. In November 2023, he was provided with the address for Mr. Jones.

24. Despite having all the information he needed, Mr. Rodriguez only uploaded Ms. Cain's Claim and Statement of Claim in March 2024, four months later. Mr. Rodriguez admitted that he had not shared drafts of the Claim Form and the Statement of Claim with Ms. Cain at any time.
25. This Council finds it very unusual that an attorney, having been retained in 2020 to file a claim, would take 12 months to request additional information in February 2021. It was only after Ms. Cain requested the refund some additional 12 months after that, in June 2022, that Mr. Rodriguez started requesting additional information. It took Mr. Rodriguez over 48 months from being retained to upload and file the claim.
26. The Council does not accept from Mr. Rodriguez that the failure of Ms. Cain to provide him with the precise address to serve Mr. Jones could be an obstacle to filing the claim. The Supreme Court Civil Procedure Rules do allow for alternative means of service on a defendant. The Council also does not accept that the absence of the precise date of the second oral agreement (between Ms. Cain and Mr. Jones in 2018) was any good reason for the delay that occurred between 2020 and 2022. As is apparent from the evidence, Mr. Rodriguez did not pursue this information until more than 24 months after being retained. He did so only after Ms. Cain had requested a refund of her retainer in June 2022.
27. Ms. Cain and Mr. Rodriguez spoke after the request for the refund, and from the evidence, he had once again undertaken to file the claim. Showing extraordinary patience and naiveté, she withdrew her request for a refund. Mr. Rodriguez filed no claim in 2022 nor in 2023. A claim was uploaded in March of 2024. After waiting 28 months and taking Mr. Rodriguez's word in June 2022 that he would file her claim, Ms. Cain waited another 21 months before making this complaint.
28. The Council finds it incredulous that an attorney would take more than 48 months to file a claim. This is especially because the filing of claims is time-sensitive given that the *Limitation Act* and other laws may statute-bar or provide some discretionary bar against a claim. This Council finds Ms. Cain, though persevering in her quest for updates on her claim, exhibited extraordinary forbearance in acting against Mr. Rodriguez, holding on to

the hope that he would act on her behalf

29. Mr. Rodriguez's protracted delays are inexplicable, inexcusable and deplorable and must be condemned in the strongest terms as being unprofessional.

30. Attorneys-at-Law in this jurisdiction cannot simply attend to client's work when it is convenient for them to do so or only at the eleventh hour when there has been sufficient time to attend to the matter. Once retained, an attorney-at-law has a legal and ethical obligation to act without undue delay to his client and his fellow attorneys.

Conclusion

31. Considering all the material placed before this Council, the Council is satisfied that the allegations against Mr. Rodriguez have been established and that Mr. Rodriguez's conduct amounts to professional misconduct. In particular, the Council finds that Mr. Rodriguez's conduct has breached Rules 28 and 69 of the Legal Profession (Code of Conduct) Rules.

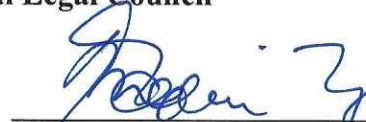
32. Mr. Rodriguez is required to show cause in writing to this Council on or before the close of business on 12th of December 2024 as to why any of the sanctions set out in section 16(2) of the Legal Profession Act should not be imposed upon him.

Dated the 29th of November 2024

By the General Legal Council



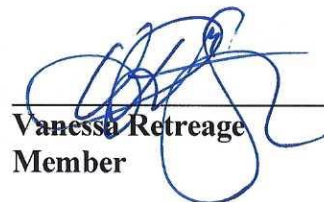
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