On May 9, 2018 with due notice and pursuant to Maine Bar Rule 13(e)(7), Panel D of the Grievance Commission conducted a public disciplinary hearing concerning misconduct by the Respondent, Jennifer A. Davis, Esq. The disciplinary proceeding was commenced on January 29, 2018, by the Board of Overseers of the Bar’s (Board) filing of a Stipulated Disciplinary Petition. Prior to the scheduled hearing date, the parties notified the Clerk that they had negotiated a proposed settlement of the disciplinary matter, with that proposed sanction report being submitted for the Panel’s review and consideration.

At that hearing, Attorney Davis appeared with her Attorney, Sarah K. Hall, Esq. The Board was represented by Assistant Bar Counsel Alan P. Kelley. The complainant, Jessica R. Mague, had been provided with a copy of the parties’ proposed Stipulated Report and was not present at that proceeding and provided an opportunity to present comment to the Panel.

Having reviewed the stipulated, proposed findings within that Report as presented by counsel, the Panel makes the following disposition:
FINDINGS

The Respondent, Jennifer A. Davis, Esq., of Topsham, Maine was at all times relevant hereto an attorney duly admitted to the practice of law in the State of Maine and subject to the Maine Bar Rules and the Maine Rules of Professional Conduct. Attorney Davis was admitted to the Maine Bar in 1999 and she is currently a solo practitioner with an office in Topsham, Maine.

According to the parties’ stipulations, the Panel finds the following relevant facts:

On July 12, 2017, a grievance complaint was filed by Jessica R. Mague against Attorney Davis, who then through counsel filed her initial written response with Bar Counsel on September 11, 2017.

During the course of the Board’s investigation, Ms. Mague and Attorney Davis were each afforded the respective opportunity for rebuttal and supplemental responses, resulting in a fully developed investigation, pursuant to M. Bar R. 2(b)(2) & 13(b).

As a result, on or about November 27, 2017 a panel of the Grievance Commission reviewed Attorney Davis’s actions in this matter and found probable cause to believe that she had engaged in misconduct subject to sanction under the Maine Bar Rules. Therefore, the Grievance Commission panel directed Bar Counsel to prepare and present a formal charges disciplinary petition before a different panel of the Grievance Commission.
Ms. Mague's complaint involved Attorney Davis's failure to represent her with diligence and to communicate with her regarding the status of a civil lawsuit involving Ms. Mague and her former long term domestic partner and employer.

In June of 2016, Ms. Mague retained Attorney Davis to represent her in regard to potential legal action against her former domestic partner and employer. Attorney Davis attempted unsuccessfully to negotiate a settlement agreement and drafted a civil complaint on Ms. Mague's behalf. In December of 2016, Ms. Mague and Attorney Davis discussed filing the complaint and commencing a civil lawsuit against the defendant.

In early 2017 Attorney Davis was involved in the care of a close family member suffering from a serious illness, and in February of 2017 she realized that she had not filed or served the complaint which she had drafted, admitting that her ongoing responsibilities of caring for her family member had required a large amount of attention and focus. In addition, Attorney Davis failed to notify Ms. Mague of her error or take steps to rectify that error until early June of 2017.

In responding to Ms. Mague's complaint, Attorney Davis admitted to Bar Counsel that she had failed to promptly file the complaint on Ms. Mague's behalf, and that she had not advised her client of that failure in a timely manner. Attorney Davis also expressed her remorse and detailed the steps which she had taken to prevent any such future errors on her part.

Based on the facts set forth above, Attorney Davis admits that she engaged in violation of the applicable Maine Rules of Professional Conduct as detailed below. Specifically, those rules include M. R. of Prof. Conduct 1.3 (diligence);
1.4(a)(b) (communication); and 8.4(a)(d) (conduct prejudicial to the administration of justice).

CONCLUSION AND SANCTION

The Maine Rules of Professional Conduct specifically require attorneys to uphold their responsibilities to clients and the courts. Due to Attorney Davis's above-outlined violation of the Maine Rules of Professional Conduct, Ms. Mague was subjected to delay in the prosecution of her civil claim. The Panel notes that Attorney Davis has no prior public sanction record with the Board and that she has now taken full responsibility for her misconduct. At the disciplinary hearing, Attorney Davis again expressed remorse for her violation of the Maine Rules of Professional Conduct, and the effect which it had on her former client.

The purpose of bar disciplinary proceedings is not punishment, but rather the protection of the public from attorneys who, by their conduct, have demonstrated that they are unable to properly discharge their professional duties. Since the evidence supports a finding and Attorney Davis agrees that she did in fact violate the Maine Rules of Professional Conduct, the Panel has analyzed the proper sanction factors warranted under M. Bar R. 21. As a result, upon that analysis for imposing a proper sanction under M. Bar R. 21(c), the Panel finds that a reprimand should be issued against Attorney Davis under M. Bar R. 21(b)(5).

Therefore, the Panel accepts the agreement of the parties, including Attorney Davis's separately executed waiver of the right to file a Petition for Review, and concludes that the appropriate disposition of this case is a public
Reprimand to Jennifer A. Davis, Esq. which is now hereby issued and imposed upon her pursuant to M. Bar R. 13(e)(10)(C) and 21(b)(5).

Date: May 9, 2018

James A. McKenna, III, Esq., Panel Chair

Teresa M. Cloutier, Esq., Panel Member

Emilie van Eeghen, Public Member