

**TO: MARIA TESTA, ESQUIRE**

Stephen Boerner  
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Tuesday, May 6, 2025

Maria Testa, Esquire  
Testa & Pagnanelli, LLC  
325 Swede Street, Suite 201  
Norristown, PA 19401

**Re: FORMAL NOTIFICATION OF TERMINATION OF REPRESENTATION -  
Stephen Boerner Divorce Proceedings**

Dear Attorney Testa:

This letter serves as formal notification that your representation of me in all legal matters is terminated effective immediately upon your receipt of this communication.

As of the date and time of this communication, all billing for substantive legal services rendered on my behalf has ceased. I understand that limited, reasonable charges may be incurred solely for necessary administrative tasks directly related to the orderly withdrawal from representation and the ethical transfer of my file, as mandated by the Pennsylvania Rules of Professional Conduct.

This decision results from a comprehensive and necessary review of our attorney-client relationship and the services spanning September 2024 through May 2025. The following details the specific and foundational reasons compelling this termination.

The assessment below methodically details and supports the basis for this termination by documenting a pervasive pattern of neglect, communication failures, and questionable billing practices that have fundamentally undermined the trust inherent in our professional relationship and demonstrably prejudiced my legal interests.

## **SYSTEMATIC FAILURES IN REPRESENTATION**

### **BREACH OF TRUST AND FINANCIAL MISREPRESENTATION**

Our professional relationship commenced with my payment of a \$3,500 retainer on or around September 8, 2024, under our initial fee agreement.

During our initial consultation and multiple subsequent occasions, I explicitly communicated my constrained financial circumstances and the critical necessity for transparent billing and cost management. Specifically, I provided specific, unambiguous instructions requiring prior notification before charges exceeded my initial retainer, making unequivocally clear that "surprise billing" would mentally and economically damage me, your client.

In one specific phone conversation, upon hearing my request for no "surprise billing," you directly verbally represented that you had "not even taken a dent" in the \$3,500 retainer and that this amount would be "more than enough" to cover anticipated legal services through the conclusion of the divorce proceedings. I relied upon this explicit assurance in making critical financial decisions and planning.

This explicit contractual understanding and direct representation were flagrantly disregarded and breached when, on April 16, 2025, I received a billing statement showing \$772 in charges exceeding my retainer and a simultaneous demand for a \$3,500 retainer replenishment.

This total obligation of \$4,272 arrived without any prior communication or status updates indicating that I was approaching or had exceeded my retainer limit, constituting a clear breach of our explicit fee agreement and a failure to comply with the duty of transparent communication regarding fees as required by the Pennsylvania Rules of Professional Conduct.

The timing and manner of this billing were particularly egregious given your intimate knowledge of my precarious financial circumstances, combined with delicate mental health standing. To suddenly present both an unexpected bill for \$772 and a demand for another \$3,500 payment without any prior warning or interim updates throughout our representation caused profound and avoidable financial distress during an already traumatic period in my life. This disregard for my clearly expressed financial boundaries demonstrates an alarming indifference to my well-documented personal hardships and economic constraints.

The absence of appropriate billing protocols or retainer monitoring systems, despite your explicit awareness of my financial constraints and my direct instruction, demonstrates either a calculated disregard for our agreement or administrative negligence inconsistent with the duty of diligence and communication owed to a client - neither of which meets expected professional standards in an attorney-client relationship.

#### **EXORBITANT DISCOVERY REVIEW CHARGES WITHOUT DEMONSTRABLE VALUE OR COMMUNICATION**

The billing statement reveals particularly troubling charges for discovery review in January 2025, representing the single largest time investment in the entire representation:

- January 6, 2025: 2.5 hours (\$750) for "Attn to discovery responses, prepared asset list."
- January 7, 2025: 1.0 hour (\$300) for "Attn to discovery responses, revised asset list, e-mail to OC"

This 3.5-hour block represents over \$1,050 in fees - nearly 30% of my initial retainer - and constitutes a substantial expenditure of my limited resources. Despite this considerable expenditure, I received no single email, document, or phone call communicating any strategic insights, significant findings, or actionable intelligence resulting from this purported analysis. There was a manifest lack of demonstrable value or substantive communication flowing from this billed time, raising serious questions about the competence and value of the services rendered during this period, inconsistent with the duty of competent representation under **Pa.R.P.C. 1.1**.

When I was later compelled to conduct my own thorough review of the approximately 500 pages of disclosure, I personally uncovered critical evidence, including:

- Multiple undisclosed bank accounts with substantial concealed balances
- The systematic movement of funds is clearly designed to mask assets
- Deliberate concealment of employment status and income
- Incontrovertible evidence that my spouse had secretly reactivated her nursing license (verified through state licensing database)
- Chronological inconsistencies clearly indicating willful misrepresentation.

In subsequent conversations, your apparent unfamiliarity with these crucial findings, which I uncovered independently through my own efforts, raises profound questions about the thoroughness and performance of the billed services during those 3.5 hours.

This striking disconnect between substantial billing and the apparent lack of substantive analysis or communication represents significant billing without corresponding professional services rendered, inconsistent with the duty of competent representation under **Pa.R.P.C. 1.1** and the requirement for reasonable fees under **Pa.R.P.C. 1.5**.

#### **DOCUMENTED 20-DAY ABANDONMENT OF CRITICAL SETTLEMENT OPPORTUNITY**

On February 25, 2025, at 5:39 PM, I forwarded to you and Randi a direct settlement proposal received from Melissa, which contained:

- A comprehensive settlement proposal addressing all major assets and terms.
- A clear request for you to review the proposal.
- An explicit request for Randi to schedule a meeting to discuss it following your review.

This forwarded settlement opportunity represented a pivotal moment in my case – a potential path to efficient resolution that could have saved substantial time, expense, and emotional strain.

TWENTY (20) CONSECUTIVE DAYS OF INEXPLICABLE SILENCE and complete abandonment of this critical communication. The forensic email analysis irrefutably confirms that neither you nor anyone from your office acknowledged, responded to, or referenced this crucial communication in a full 20 days, from February 25 until March 17, 2025.

During this exact 20-day period of inexplicable abandonment regarding the settlement proposal, your firm unconscionably continued billing \$240 for other activities (0.8 hours), including communications with opposing counsel on unrelated matters. When contact finally resumed on March 17, 2025, there was no acknowledgment or reference to the February 25 settlement proposal; instead, you initiated an entirely new topic regarding a demand letter as if my prior communication had never existed.

This extended period of silence regarding a critical settlement opportunity was not a minor oversight; it constitutes a breathtaking dereliction of the duty of diligence owed to a client under **Pa.R.P.C. 1.3**.

For TWENTY CONSECUTIVE DAYS, a critical path to resolution was ignored:

- A meeting was not scheduled.
- An analysis was not provided.
- An acknowledgment was not offered.
- Guidance was not presented.
- An explanation was not provided.
- It was never acknowledged.

This extended abandonment of a critical settlement opportunity while continuing to bill for other activities constitutes a fundamental breach of the duty of diligence that forms the cornerstone of attorney-client relationships.

Failing to pursue a timely and possibly favorable resolution caused significant and potentially irreparable damage to my case timeline, settlement leverage, and overall financial position.

#### **FAILURE TO PROTECT STRATEGIC INFORMATION REGARDING CONCURRENT LEGAL MATTERS**

During our representation, you conveyed that opposing counsel requested information about "a legal case" without exercising due diligence to obtain essential clarification about which specific matter was referenced.

This failure created unnecessary and significant strategic exposure, as I was navigating the preliminary stages of two distinct potential legal actions entirely separate from the divorce proceedings:

- A potential claim against a former employer (Solar First), which was known to my spouse but which I had strategically decided not to pursue at this time.
- A developing case against a former Florida landlord who had wrongfully retained my \$4,500 security deposit and approximately \$4,200 in personal belongings - a matter likely unknown to my spouse and potentially representing a significant future asset in the divorce proceedings, the value of which I was actively working to recover independently.

The failure to obtain basic clarification from opposing counsel before presenting this inquiry demonstrated an astonishing lack of strategic foresight and a failure to adequately counsel me on

the risks of disclosing information about nascent legal proceedings.

Any competent attorney, exercising reasonable care as required by **Pa.R.P.C. 1.1**, would recognize the critical importance of determining precisely which matter was being referenced before potentially exposing confidential or unknown information about potentially valuable assets or liabilities.

This negligence created the unnecessary risk of premature disclosure that could have catastrophically disadvantaged my financial position in the divorce proceedings. The absence of strategic guidance on this critical matter demonstrates a pattern of representation falling critically short of professional standards and the duty of competent representation under the Pennsylvania Rules of Professional Conduct.

#### **FAILURE TO PROPERLY CLASSIFY MARITAL DEBT AND ADVISE ON FINANCIAL STRATEGY**

During our most recent conversation, I discussed the \$12,500 personal obligation bridge loan I secured on January 3, 2025, to cover essential expenses for the marital property. During this discussion, you incorrectly asserted that this loan would likely be classified as non-marital debt. This assertion demonstrates a fundamental misunderstanding of marital debt principles under applicable law.

This loan was obtained after our separation but before the finalization of the divorce, solely to cover essential mortgage and maintenance expenses on the jointly owned marital property at 246 N 3rd St. #4CD, Philadelphia. The necessity of this loan arose directly from Melissa Bemer's complete cessation of financial contributions and communication regarding the Marital Property's costs since October 2024, effectively abandoning her financial responsibility for a joint asset.

Under applicable law, property acquired during the marriage is presumed marital property. Similarly, debts incurred during the marriage, even if post-separation but before the divorce decree, are generally presumed marital debt if they are related to the marital estate. The \$12,500 loan was incurred on January 3, 2025, during the marriage (as the divorce was not yet final) and its sole purpose was to preserve the Marital Property by covering essential carrying costs (mortgage, maintenance) that I could no longer bear alone due to Melissa's abandonment of her obligations.

Courts have consistently held that debts incurred to preserve marital property are marital debts subject to equitable distribution, even if incurred by only one spouse, provided the debt benefits the marital estate.

The fact that this was a personal obligation loan signed solely by me does not automatically render it non-marital debt, particularly since it was necessary to prevent dissipation of a marital asset and directly benefited the marital estate by covering essential expenses. This situation is fundamentally different from incurring debt for personal discretionary spending, gambling losses, or costs unrelated to the preservation or maintenance of marital assets, which are typically classified as non-marital.

Your failure to correctly understand the classification of this significant debt, writing it off as inadmissible and not strategically applicable, which was executed to protect a primary marital asset from potential foreclosure or further loss of value due to my spouse's financial abandonment, demonstrates a critical lack of understanding of fundamental principles of marital debt under applicable law and constitutes a failure to provide competent representation and strategic advice regarding a crucial financial aspect of my case.

#### **FAILURE TO ADDRESS CONCEALED EMPLOYMENT AND HEALTH BENEFITS**

On July 29, 2024, Melissa Bemer terminated her Florida nursing employment, abruptly ending my spousal health coverage effective August 1, 2024. From August 2024 to February 2025, I remained uninsured despite requiring treatment for PTSD, forcing me to procure individual coverage through Maryland's exchange for \$277 per month.

Through independent forensic analysis of financial disclosures, I subsequently discovered that Melissa began full-time employment at the Hospital of the University of Pennsylvania in December 2024 - a fact deliberately concealed in her December 30, 2024, financial disclosures. This position provided comprehensive group medical benefits covering spouses, which she willfully withheld from me and failed to disclose.

#### **Melissa's actions violated fundamental legal duties, including:**

- Duty of Support - 23 Pa.C.S. § 4321:

Melissa owed a statutory duty to maintain accessible health coverage for me until the divorce finalization. Her failure to reinstate coverage or disclose her new employment and the availability of benefits forced me to incur significant and unnecessary medical expenses.

- Equitable Distribution Fraud - 23 Pa.C.S. § 3502:

Concealing post-separation employment and available health benefits constitutes bad-faith nondisclosure, prejudicing the equitable distribution of marital assets and debts.

Melissa's employer-sponsored coverage is a marital resource subject to allocation under principles such as those outlined in **23 Pa.C.S. § 3502(a)(7)**, which credits contributions to the preservation of marital property. Her concealment prevented the possibility of cost-sharing my \$277 per month premium or reinstating me on her plan, consistent with case law supporting health insurance cost-sharing (See, e.g., *GMM v. JAC*, 224 A.3d 728 (**Pa. Super. 2019**)).

- Health Insurance Allocation - **Pa.R.C.P. 1910.16-6(b)** :

Her employer-sponsored coverage was a marital resource subject to allocation. Her concealment prevented the possibility of cost-sharing my \$277 monthly premium or reinstating me on her plan.

**Critical Attorney Failures regarding this issue include:**

- No Investigation:

Despite Melissa's August 2024 coverage termination, you failed to monitor her employment status or demand proactively updated financial disclosures that would reveal new income or benefits.

- Missed Red Flags:

You overlooked clear discrepancies in Melissa's December 2024 financial filings, which showed zero income despite her having commenced new full-time employment that month.

- No Legal Strategy:

You neglected to advise me on or pursue available legal remedies, such as seeking reimbursement under **Pa.R.C.P. 1910.16-6(c)** for the premiums I was forced to pay or requesting sanctions for discovery violations under **Pa.R.C.P. 1910.12**.

**These failures constitute significant ethical violations:**

- **Pa.R.P.C. 1.1** (Competence) :

Providing no guidance or incorrect advice regarding my lapsed health coverage and the potential for reimbursement or reinstatement demonstrates a lack of competence in handling my case's critical financial and health-related aspect.

- **Pa.R.P.C. 1.3** (Diligence) :

Failing to investigate Melissa's employment status, overlooking obvious non-disclosures in her filings, and



neglecting to pursue available remedies demonstrates a lack of diligence in protecting my interests.

**As a direct result of these failures, specific remedies and outcomes in my case have been prejudiced:**

- I incurred \$1,662 in unrecovered medical insurance premiums (August 2024 - February 2025) that should have been addressed.
- I lost the opportunity to reinstate spousal health coverage promptly through Melissa's employer plan.
- My position for seeking appropriate adjustments to alimony pendente lite or the final asset distribution based on Melissa's concealed income and benefits has been weakened.

**FAILURE OF ZEALOUS ADVOCACY AND UNDERMINING OF FIDUCIARY DUTY**

This pattern of representation deficiencies culminated on or about May 1, 2025, when you forwarded a communication from opposing counsel regarding my tax filing deadline. This communication arrived despite my fully legitimate extended tax filing deadline of April 30, 2025, which was granted through federal hurricane relief provisions based on my documented Florida residency and publicly available IRS guidance.

This final interaction transcends mere communication failure; the tone and substance of your transmittal favored opposing counsel's position and abandoned the role of zealous advocate for my legitimate interests.

When my counsel appears to adopt the adversary's perspective rather than defending my legitimate position with vigor, it indicates a disturbing alignment of interest. It constitutes a fundamental betrayal of the fiduciary duty owed to me, which has irreparably undermined the attorney-client relationship and my trust in your ability to represent me. This failure to competently represent my interests regarding the tax deadline also raises concerns under **Pa.R.P.C. 1.1**.

**PROFESSIONAL RESPONSIBILITY CONSIDERATIONS**

Based on my comprehensive review, the systematic pattern of representation deficiencies meticulously described above appears inconsistent with fundamental principles of attorney professional responsibility. It potentially raises serious concerns under multiple provisions of the Pennsylvania Rules of Professional Conduct:

- **Pa.R.P.C. 1.1** (Competence):

The lack of demonstrable value or strategic insight derived from substantial billed time for discovery review, the failure to adequately counsel on concurrent legal matters, and the failure to competently address the tax deadline issue raise concerns under **Pa.R.P.C. 1.1** (Competence), which requires a lawyer to provide competent representation.

- **Pa.R.P.C. 1.3 (Diligence):**

The documented 20-day abandonment of a critical settlement proposal and other delays raise grave concerns under **Pa.R.P.C. 1.3** (Diligence), which requires a lawyer to "act with reasonable diligence and promptness in representing a client."

- **Pa.R.P.C. 1.4 (Communication):**

The failure to communicate strategic insights from substantial discovery review, the inexcusable 20-day non-response to a settlement proposal, the ambush billing without prior notification, and insufficient guidance on concurrent legal matters collectively constitute a clear pattern of failing to meet the requirements of **Pa.R.P.C. 1.4** (Communication), which mandates keeping the client reasonably informed and promptly complying with reasonable requests for information.

- **Pa.R.P.C. 1.5 (Fees):**

Unexpected billing exceeding the retainer without prior notification, substantial charges without documented strategic value, and the complete absence of retainer status updates raise serious questions under **Pa.R.P.C. 1.5** (Fees), which requires that fees be reasonable and that the basis or rate of fee be communicated to the client. The failure to abide by our explicit agreement regarding notification before exceeding the retainer is a direct violation of this principle.

- **Pa.R.P.C. 1.7 (Conflict of Interest):**

The final communication's perceived alignment with opposing counsel's perspective raises concerns under **Pa.R.P.C. 1.7** (Conflict of Interest), which requires a lawyer to exercise independent professional judgment free from compromising influences.

These are not isolated incidents or minor administrative oversights. They represent a pervasive pattern of failures in fundamental aspects of legal representation that systematically prioritizes procedural activities and billing opportunities over substantive client advocacy, diligent case management, and efficient resolution, inconsistent with your ethical obligations

and the standards of the legal profession.

#### **NECESSARY ACTIONS FOLLOWING TERMINATION**

As a direct result of this termination for cause, I respectfully request and require that the following actions be taken promptly to ensure an orderly transition and minimize prejudice to my interests, consistent with your obligations under **Pa.R.P.C.**

##### **1.16(d) :**

- **Immediate Withdrawal Filing:**

You must withdraw from my representation under **Pa.R.P.C. 1.16(a) (3)**. Please file a formal motion to withdraw as counsel of record in all pending matters within three business days of the date of this letter. I understand withdrawal is subject to court approval according to local rules, such as **Delaware County Local Rule 13.01**. I may be impacted by the court's calendar or proximity to scheduled hearings. Please provide copies of all filed withdrawal documents to me within 24 hours of filing.

- **Complete Case File Transfer:**

Consistent with your ethical obligations under **Pa.R.P.C. 1.16(d)**, which requires the surrender of papers and property to which the client is entitled upon termination, please provide to me directly (not to successor counsel) my complete and unredacted case file within seven business days of the date of this letter. This file must include, but is not limited to, all substantive work product and materials related to my representation, specifically including:

- All pleadings, correspondence, and discovery materials in their original format.
- All analysis documents, memoranda, and substantive notes related to my case and your representation of me, including, without limitation, any analysis of discovery materials or settlement proposals.
- The complete "asset list" referenced in your January 6-7, 2025, billing entries.
- All analytical documents and work products created during the 3.5 hours of discovery review are billed on January 6-7, 2025.
- Any internal communications containing substantive analyses or strategic instructions regarding the February 25, 2025, settlement proposal.

- Complete documentation of all communications with opposing counsel (emails, letters, notes of calls).
- Documentation of all phone calls related to my case, including contemporaneous notes.
- All financial records relating to my representation, including detailed time entry records.  
These materials are critical for ensuring continuity of representation and protecting my interests.

- **Comprehensive Billing Documentation and Justification:**

In addition to detailed billing records, I require a specific and detailed explanation justifying the charges incurred, particularly addressing the following:

- A precise description of the work product created and strategic insights derived during the January 6-7 discovery review (3.5 hours, \$1,050).
- A thorough explanation for the 20 days during which my February 25 settlement proposal received no response, acknowledgment, or action, despite being directed to your office.
- I want a clear explanation for why I received no notification before my balance exceeded the retainer amount, despite our explicit agreement regarding prior notification before exceeding the retainer and avoiding "surprise billing."

- **Billing Reconsideration:**

In light of the substantial concerns meticulously documented in this letter, which demonstrate a failure to adhere to our fee agreement and provide services commensurate with the billing, I formally request reconsideration and waiver of the outstanding balance of \$772.

This balance resulted directly from charges exceeding my retainer without prior notification, in direct contravention of our explicit agreement and the ethical requirement for clear fee communication under **Pa.R.P.C. 1.5**. Furthermore, the request for an additional \$3,500 retainer is considered unwarranted and inappropriate given the circumstances outlined and the fundamental basis for this termination.

- This termination follows my good-faith efforts to avoid "surprise billing" and subsequent disputes proactively. I have done this by stating billing

requests and validating the circumstances for doing so, which led to your verbal agreement.

- This approach is consistent with the principles outlined in rules such as **Delaware County Local Rule of Civil Procedure 208.2(e)**. Therefore, I formally request that the outstanding balance of \$772 be waived.

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**RESERVATIONS OF RIGHTS:**

I, STEPHEN J. BOERNER, reserve all rights to pursue any available legal and ethical remedies.

This includes, without limitation, formal fee dispute resolution through the Pennsylvania Bar Association, filing a formal complaint with the Pennsylvania Disciplinary Board, and/or initiating legal malpractice proceedings.

These measures will be implemented if a satisfactory resolution of billing disputes or professional conduct matters is not achieved. Non-compliance will result in immediate escalation of remedial actions.

I am profoundly disappointed and frustrated that our professional relationship has deteriorated to this point. However, the systematic pattern of neglect, communication failures, lack of diligent advocacy, breach of trust, and questionable billing practices outlined above has created irreconcilable concerns about the quality of representation I have received and my ability to trust your firm with my vital legal interests.

All future communications regarding case transition, file transfer, billing matters, or any other aspect of my case should be directed to me personally using the contact information provided above. Until replacement representation is secured, and only if necessary, I am proceeding pro se in accordance with **Pa.R.C.P. 1930.8.**

I require prompt acknowledgment of this termination and timely compliance with the requested actions outlined herein, which are consistent with your ethical obligations.

Sincerely,

Stephen Boerner