

DISCIPLINARY BOARD
WASHINGTON STATE BAR ASSOCIATION

In re
JAMES RAFFA,
Lawyer (Bar No. 20394).

Proceeding No. 21#00030
**DISCIPLINARY BOARD ORDER
AMENDING HEARING OFFICER'S
DECISION**

This matter came before the Disciplinary Board at its July 25, 2025, meeting, on review of Hearing Officer Eric T. Krening's December 27, 2024, Findings of Fact and Conclusions of Law and Recommendation of Hearing Officer entered following a hearing, recommending admonition.

The Board reviews the hearing officer's findings of fact for substantial evidence. The Board reviews conclusions of law and sanction recommendations de novo. Evidence not presented to the hearing officer or panel cannot be considered by the Board. ELC 11.12(b).

Having reviewed the materials submitted and considered the applicable case law and rules,

IT IS HEREBY ORDERED THAT the Hearing Officer's decision is adopted with the following amendments¹:

Finding of Fact 11 (Procedural History) is amended by striking **Footnote 1**. The Disciplinary Board finds that the evidence does not support a vexatious grievant finding, and, as the Office of Disciplinary Counsel correctly pointed out in their Opening Brief (page 16, footnote 8), a grievant's motive in filing a grievance is irrelevant.

¹ The vote was 11:0. Severson, Cohon, Meyer, Zeidel, Atreya, Throgmorton, Overby, Ashby, Miller, Brangwin, and Agarwal voted to amend the hearing officer's decision as stated in this order. Jones and Endter did not attend.

1 **The hearing officer's recommendation is amended as follows:**

2 In addition to issuing an admonition as recommended by the hearing officer, the
3 Disciplinary Board orders a remedy. **The Respondent shall pay restitution to his clients** and
4 return the collected Mahler fees per the table in Appendix C of the Office of Disciplinary
5 Counsel's Opening Brief. The restitution shall include interest at the Washington State
6 judgment rate per RCW 4.56.110 from the date the Mahler fees were taken by Respondent.

7 The Disciplinary Board agrees with the hearing officer's finding that "if a client agreed
8 to have Respondent retain a contingency fee on reimbursements to the PIP and/or medical
9 insurers, such contingency fee would be ethically proper." (FOF 16) Still, as the hearing officer
10 highlighted in the Conclusions regarding Count 4 of the charges (page 28), the Settlement
11 Authorizations did not specify that the Respondent would retain a contingency fee from the
12 reimbursements to the PIP/medical insurers. This omission conflicted with the Respondent's
13 reading of the language found in the contingency fee agreements, the cover letters
14 accompanying the payments, and the trust account statements. As a result, this inconsistency,
15 at a minimum, created ambiguity in the attorney-client communications and, in context,
16 rendered the Settlement Authorizations potentially misleading and incomplete. Consequently,
17 each Settlement Authorization represented a violation of RPC 1.4(b). The Respondent accepted
18 this conclusion (Respondent's Opposition Brief, page 15) and testified at the hearing that he
19 has changed his practice since and now provides the Mahler reduction to his clients (hearing
20 transcript volume II, page 70-71).

21 The remaining provisions of the Findings of Fact and Conclusions of Law and
22 Recommendation of Hearing Officer remain unchanged.

Dated this 12th day of August, 2025


Deborah A Severson, WSBA #35603
Disciplinary Board Chair

CERTIFICATE OF SERVICE

I certify that I caused a copy of the Disciplinary Board Order Amending HO's Decision to be emailed to the Office of Disciplinary Counsel and to the Respondent's Counsel, Jeffrey T Kestle, at jkestle@foum.law, on the 12th day of August, 2025.

A handwritten signature in blue ink, consisting of stylized, overlapping loops and a long horizontal stroke extending to the right.

Clerk to the Disciplinary Board