FILED
Jul 1, 2026
Disciplinary Board
Docket # 032

DISCIPLINARY BOARD
WASHINGTON STATE BAR ASSOCIATION

In re **RAFAL GORSKI,** Lawyer (Bar No. 28834).	Proceeding No. 22#00057 FINDINGS OF FACT, CONCLUSIONS OF LAW AND HEARING OFFICER'S RECOMMENDATION

The undersigned Hearing Officer held a default hearing by written submission on June 18, 2026 under Rule 10.6 of the Washington Supreme Court's Rules for Enforcement of Lawyer Conduct (ELC).

FINDINGS OF FACTS AND CONCLUSIONS OF LAW REGARDING CHARGED VIOLATIONS

1. The Formal Complaint (Bar File No. 3) charged Rafal Gorski with misconduct as set forth therein. A copy of the Formal Complaint is attached to this decision.

2. Under ELC 10.6(a)(4), the Hearing Officer finds that each of the facts set forth in the Formal Complaint is admitted and established.

3. Under ELC 10.6(a)(4), the Hearing Officer concludes that each of the violations charged in the Formal Complaint is admitted and established as follows:

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Count 1: By using and/or converting *Mahler* and/or similar fees for Respondent's own benefit and/or the benefit of others without entitlement to the funds, Respondent violated RPC 1.15A(b) and RPC 8.4(c).

Count 2: By failing to maintain client and/or third person funds in a trust account, Respondent violated RPC 1.15A(c).

Count 3: By charging and/or collecting an unreasonable fee, Respondent violated RPC 1.5(a).

Count 4: By failing to promptly pay or deliver funds that clients and/or third persons were entitled to receive, Respondent violated RPC 1.15A(f).

Count 5: By providing clients with false, misleading, and/or incomplete disbursal instructions, by misrepresenting the amounts paid for subrogation, attorney fees, and/or the amounts clients were due to receive, and/or by failing to provide clients with an accurate written accounting after distributing funds from the trust account, Respondent violated RPC 1.4, RPC 1.5(c)(3), RPC 1.15A(e), and RPC 8.4(c).

Count 6: By entering sharing legal fees with Raffa, without meeting the requirements of RPC 1.5(e)(1), Respondent violated RPC 1.5(e).

Count 7: By failing to maintain a complete and/or current trust account check register, Respondent violated RPC 1.15A(h)(2) and RPC 1.15B(a)(1).

Count 8: By failing to maintain complete and/or current client ledgers, Respondent violated RPC 1.15A(h)(2) and RPC 1.15B(a)(2).

Count 9: By failing to reconcile the trust account check register to the bank statements and/or the trust account check register to the client ledgers and/or by failing to maintain copies of the reconciliations, Respondent violated RPC 1.15A(h)(6) and RPC 1.15B(a)(8).

FINDINGS OF FACTS AND CONCLUSIONS OF LAW REGARDING RECOMMENDED SANCTION

4. Respondent knew or should have known Respondent was not properly handling client property by collecting excess settlement funds and not maintaining appropriate trust account records, as charged in Counts 1, 2, 4, 7, 8, and 9.

5. Respondent acted knowingly in charging and collecting unreasonable fees, providing clients with false, misleading, or inadequate information, and in sharing fees with another lawyer without obtaining the proper consent from clients, as charged in Counts 3, 5, and 6.

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6. Respondent's conduct caused injury to Respondent's clients, who were deprived of funds to which they were entitled, whose funds were not safeguarded in trust or properly accounted for, who paid unreasonable fees, and who were not provided with complete or accurate information about the distribution of their funds.

7. Respondent and/or James Raffa collected excess settlement funds as follows:

(a) $7,963.26 from the settlement of DS;

(b) $295.50 from the settlement of CN;

(c) $351.06 from the settlement of SK;

(d) $837.67 from the settlement of HR;

(e) $258.10 from the settlement of DJ; and

(f) $1,112.90 from the settlement of SE.[1]

8. The following standards of the American Bar Association's *Standards for Imposing Lawyer Sanctions* ("ABA *Standards*") (1991 ed. & Feb. 1992 Supp.) presumptively apply:

ABA *Standard* 4.1 applies to Counts 1, 2, 4, 7, 8, and 9:

> ***4.1 Failure to Preserve the Client's Property***
> Absent aggravating or mitigating circumstances, upon application of the factors set out in 3.0, the following sanctions are generally appropriate in cases involving the failure to preserve client property:
> 4.11 Disbarment is generally appropriate when a lawyer knowingly converts client property and causes injury or potential injury to a client.
> 4.12 Suspension is generally appropriate when a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client.
> 4.13 Reprimand is generally appropriate when a lawyer is negligent in dealing with client property and causes injury or potential injury to a client.
> 4.14 Admonition is generally appropriate when a lawyer is negligent in dealing with client property and causes little or no actual or potential injury to a client.

[1] A key to the abbreviated names is attached as Confidential Attachment A.

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Respondent knew or should have known Respondent was dealing improperly with client property and Respondent's conduct caused injury to Respondent's clients. The presumptive sanction for Counts 1, 2, 4, 7, 8, and 9 is suspension under ABA *Standard* 4.12.

ABA Standard 7.0 applies to Counts 3 and 6:

> ***7.0 Violations of Duties Owed as a Professional***
> Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving false or misleading communication about the lawyer or the lawyer's services, improper communication of fields of practice, improper solicitation of professional employment from a prospective client, unreasonable or improper fees, unauthorized practice of law, improper withdrawal from representation, or failure to report professional misconduct.
>
> 7.1 Disbarment is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for the lawyer or another, and causes serious or potentially serious injury to a client, the public, or the legal system.
>
> 7.2 Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.
>
> 7.3 Reprimand is generally appropriate when a lawyer negligently engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.
>
> 7.4 Admonition is generally appropriate when a lawyer engages in an isolated instance of negligence that is a violation of a duty owed as a professional, and causes little or no actual or potential injury to a client, the public, or the legal system.

Respondent acted knowingly in charging and collecting unreasonable fees and in sharing fees with James Raffa without obtaining proper consent from clients. Respondent's conduct caused injury to Respondent's clients. The presumptive sanction for Counts 3 and 6 is suspension under ABA *Standard* 7.2.

ABA *Standard* 4.6 applies to Count 5:

> ***4.6 Lack of Candor***
> Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases where the lawyer engages in fraud, deceit, or misrepresentation directed toward a client:

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4.61 Disbarment is generally appropriate when a lawyer knowingly deceives a client with the intent to benefit the lawyer or another, and causes serious injury or potential serious injury to a client.

4.62 Suspension is generally appropriate when a lawyer knowingly deceives a client, and causes injury or potential injury to the client.

4.63 Reprimand is generally appropriate when a lawyer negligently fails to provide a client with accurate or complete information, and causes injury or potential injury to the client.

4.64 Admonition is generally appropriate when a lawyer engages in an isolated instance of negligence in failing to provide a client with accurate or complete information, and causes little or no actual or potential injury to the client.

Respondent acted knowingly in providing clients with false, misleading, or inadequate information regarding the handling of their funds and Respondent's conduct caused injury to Respondent's clients. The presumptive sanction for Count 5 is suspension under ABA *Standard* 4.62.

9. Under *In re Disciplinary Proceeding Against Petersen*, 120 Wn.2d 833, 854, 846 P.2d 1330 (1993), the "ultimate sanction imposed should at least be consistent with the sanction for the most serious instance of misconduct among a number of violations."

10. The following aggravating factors set forth in Section 9.22 of the ABA *Standards* apply in this case:

(c) a pattern of misconduct;
(d) multiple offenses;
(i) substantial experience in the practice of law; and
(j) indifference to making restitution.

11. It is an additional aggravating factor that Respondent failed to file an answer to the Formal Complaint as required by ELC 10.5(a).

12. The following mitigating factor set forth in Section 9.32 of the ABA Standards applies to this case:

(a) absence of a prior disciplinary record.

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RECOMMENDATION

13. Based on the ABA *Standards* and the applicable aggravating and mitigating factors, the Hearing Officer recommends that Respondent Rafal Gorski be suspended for three years and ordered to pay restitution, plus interest calculated at 12% per annum from October 28, 2022,[2] in the amounts and to the clients identified in paragraph 7 above.

DATED this 22nd day of June, 2026.



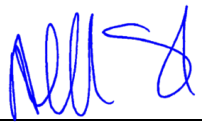
Diana M. Dearmin, Bar No. 23396
Hearing Officer

[2] The date on which this matter was ordered to hearing. BF 1.

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CERTIFICATE OF SERVICE

I certify that I caused a copy of the FOF, COL and HO's Recommendation to be emailed to the Office of Disciplinary Counsel and to the Respondent's Counsel, Alexander H Hill, at ahhill@grsm.com, on the 1st day of July, 2026.



Clerk to the Disciplinary Board

FILED
Apr 14, 2023
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Docket # 003

DISCIPLINARY BOARD
WASHINGTON STATE BAR ASSOCIATION

In re **RAFAL GORSKI,** Lawyer (Bar No. 28834).	Proceeding No. 22#00057 FORMAL COMPLAINT

Under Rule 10.3 of the Washington Supreme Court's Rules for Enforcement of Lawyer Conduct (ELC), the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association charges the above-named lawyer with acts of misconduct under the Washington Supreme Court's Rules of Professional Conduct (RPC) as set forth below.

ADMISSION TO PRACTICE

1. Respondent Rafal Gorski was admitted to the practice of law in the State of Washington on May 13, 1999.

FACTS REGARDING COUNTS 1 THROUGH 8

2. At all times relevant to this Formal Complaint, Respondent practiced law primarily in the field of bankruptcy.

3. Beginning around 2010, when a bankruptcy client had a personal injury claim,

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Respondent referred the client to lawyer James Raffa.

4. Respondent and Raffa worked in separate law firms.

5. If Raffa agreed to handle the personal injury case, Respondent advanced the costs and received forty percent (40%) of the total attorney fees.

6. Respondent and Raffa also collected a fee on any amounts waived by third persons for subrogated and/or reimbursement interests and/or contributed by third persons to the client's attorney fees and/or costs. Respondent and/or Raffa commonly referred to these additional fees as *Mahler* fees (hereinafter referred to as *Mahler* fees).

7. In some instances, client settlements were deposited into and disbursed from Respondent's trust account. In other instances, client settlements were deposited into and disbursed from Raffa's trust account.

8. Respondent maintained an Interest on Lawyer's Trust Account, ending in 3031, at Wells Fargo Bank for the deposit of client funds.

Client DS

9. On or about May 3, 2011, Respondent and DS entered into a written contingency fee agreement for a personal injury case arising out of a motor vehicle accident.

10. The fee agreement provided for a 33-1/3% fee if the case settled before trial.

11. Respondent referred DS's personal injury claim to Raffa.

12. DS did not enter into an agreement, confirmed in writing, to Respondent's fee-sharing arrangements with Raffa, including the share of fees each lawyer would receive.

13. Respondent did not explain to DS the fee-sharing arrangements with Raffa.

14. DS received time loss and other benefits under an employee benefit plan, Sound Health & Wellness Trust (Sound Health).

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15. Under Sound Health's Subrogation Reimbursement Agreement with DS, Sound Health had a right to reimbursement from any recovery obtained by DS.

16. Sound Health informed Respondent that it would agree to an equitable apportionment of Respondent's attorney fees up to a maximum of one-third of its subrogated interest.

17. On or about August 20, 2012, Raffa sent Sound Health a letter, stating that Raffa and Respondent were co-representing DS.

18. On or about October 15, 2014, DS's case settled in mediation for $160,000 plus $1,150 for the mediation fee.

19. On or about October 27, 2014, DS received Disbursal Instructions showing a "breakdown of how settlement funds will be disbursed." The Instructions provided:

a. $53,333 for attorney fees (1/3);

b. $1,042.07 to Respondent for costs;

c. $23,920 to Sound Health;

d. $81,704.81 to DS.

20. On or about November 4, 2014, United Services Automobile Association (USAA) issued a settlement check for $160,000 to Respondent in trust for DS.

21. On or about November 6, 2014, Respondent deposited the settlement check into Respondent's trust account.

22. Respondent made the following disbursements from DS's settlement funds:

a. $36,783.96 to Raffa on or about November 13, 2014;

b. $15,946.53 to Sound Health on or about November 13, 2014;

c. $81,704.81 to DS on or about November 13, 2014;

d. $25,554.70 to Respondent on or about February 7, 2016.

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23. On or about November 19, 2014, Raffa sent Sound Health a letter enclosing the $15,946.53 check.

24. The letter stated, in part:

> This amount represents the balance after the one-third (1/3) deduction for attorney's i.e [sic] *Mahler* fees. Attorney Gorski and this office decided not to deduct a similar pro-rated amount for Sound Health & Wellness Trust's share of the costs in successfully resolving this matter.

25. Respondent disbursed a total of $62,338.66 to Respondent and Raffa for attorney fees and costs, which was $7,963.26 more in fees than the amount disclosed on the Disbursal Instructions.

26. Respondent and Raffa received nearly all the funds contributed by Sound Health toward DS's attorney fees and/or costs.

27. Respondent did not notify DS of Respondent's intent to disburse *Mahler* and/or similar fees to Respondent and Raffa.

28. Respondent was not entitled to the funds contributed by Sound Health toward DS's attorney fees and/or costs, and/or any portion of the $7,963.26.

29. Raffa was not entitled to the funds contributed by Sound Health toward DS's attorney fees and/or costs, and/or any portion of the $7,963.26.

30. DS was entitled to receive the $7,963.26.

31. Respondent did not explain to DS the concept of *Mahler* and/or similar fees contributed by an insurer and/or third person.

32. Respondent did not inform DS that Respondent and Raffa kept the funds and/or collected additional fees instead of disbursing them to DS.

33. Respondent did not provide DS with an accurate settlement statement and/or accounting after distributing DS's settlement funds.

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34. Respondent did not promptly pay or deliver the $7,963.26 to DS.

35. Respondent's fees were unreasonable.

Client CN

36. On or about December 13, 2011, Respondent and CN entered into a written contingency fee agreement for a personal injury case arising out of a motor vehicle accident.

37. The agreement provided for a 33-1/3% fee if the case settled before trial.

38. Respondent referred CN's personal injury claim to Raffa.

39. CN did not enter into an agreement, confirmed in writing, to Respondent's fee-sharing arrangements with Raffa, including the share of fees each lawyer would receive.

40. In 2014, Raffa sent Group Health and Premera Blue Cross letters, stating that Raffa and Respondent were co-representing CN.

41. On or about March 13, 2015, CN's claim settled for $25,000.

42. On or about March 13, 2015, Farmers Insurance issued a settlement check for $25,000 to Respondent for CN.

43. On or about March 13, 2015, CN and Raffa signed Disbursal Instructions showing a "breakdown of how settlement funds will be disbursed." The Instructions provided:

a. $8,333.33 for attorney fees (1/3);

b. $657.49 to Respondent for costs;

c. $748.74 to Group Health (subrogation for St. Clare Hospital);

d. $947 to bankruptcy trustee (medical lien for NW Emergency Physicians);

e. $204.50 to bankruptcy trustee (medical lien for TRA Medical Imaging);

f. $78.40 to Group Health (subrogation for Tacoma Medical Center);

g. $59.36 to Calypso (subrogation lien for Premera Blue Cross);

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h. $13,971.18 to CN.

44. On or about March 19, 2015, Respondent deposited the settlement check into Respondent's trust account.

45. From April 1, 2015 to February 7, 2016, Respondent made the following disbursements from CN's settlement funds:

a. $5,177.30 to Raffa on April 1, 2015;

b. $39.57 to Calypso (subrogation lien for Premera Blue Cross) on April 1, 2015;

c. $499.16 to Group Health (subrogation for St. Clare Hospital on April 1, 2015;

d. $13,971.18 to CN on April 1, 2015;

e. $657.49 to Respondent for costs on April 2, 2015;

f. $52.27 to Group Health (subrogation for Tacoma Medical Center) on June 1, 2015;

g. $1,151.50 to CN (refunded medical expenses) on June 1, 2015;

h. $3,451.53 to Respondent on February 7, 2016.

46. On or about April 2, 2015, Raffa sent Calypso a letter enclosing the $39.57 check.

47. The letter stated, in part:

> This amount represents the balance after the one-third (1/3) deduction for attorney's, i.e. *Mahler*, fees. Attorney Gorski and this office decided not to deduct a similar pro-rated amount for Premera Blue Cross' share of the costs in successfully resolving this matter.

48. On or about June 23, 2015, Raffa sent Group Health a letter enclosing the $499.16 and $52.27 checks.

49. The letter stated, in part:

> This amount represents the balance after the one-third (1/3) deduction for attorney's, i.e. *Mahler*, fees. Attorney Gorski and this office decided not to deduct a similar pro-rated amount for Group Health's share of the costs in successfully resolving this matter.

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50. Respondent disbursed a total of $9,286.32 to Respondent and Raffa for attorney fees and costs, which was $295.50 more in fees than the amount disclosed on the Disbursal Instructions.

51. Respondent and Raffa received all the funds contributed by Group Health and/or Premera Blue Cross toward CN's attorney fees and/or costs.

52. Respondent did not notify CN of the intent to disburse *Mahler* and/or similar fees to Respondent and Raffa.

53. Respondent was not entitled to the funds contributed by Group Health and/or Premera Blue Cross to CN's attorney fees and/or costs, and/or any portion of the $295.50.

54. Raffa was not entitled to the funds contributed by Group Health and/or Premera Blue Cross to CN's attorney fees and/or costs, and/or any portion of the $295.50.

55. CN was entitled to receive the $295.50.

56. Respondent did not inform CN that Respondent and Raffa kept the funds and/or collected additional fees instead of disbursing them to CN.

57. Respondent did not provide CN with an accurate settlement statement and/or accounting after distributing CN's settlement funds.

58. Respondent did not promptly pay or deliver the $295.50 to CN.

59. Respondent's fees were unreasonable.

Client SK

60. On or about February 11, 2014, SK was involved in a motor vehicle accident.

61. SK was insured by State Farm Insurance and had personal injury protection (PIP) coverage under the policy.

62. The at-fault party was insured by Farmers Insurance.

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63. On or about January 13, 2016, Respondent and SK entered into a written fee agreement for a contingency fee of 33-1/3% of the "amount collected or recovered" in SK's personal injury case.

64. Under the agreement, Respondent reserved the right to associate with Raffa's law office and to divide fees with Raffa. The agreement did not set forth the share of fees each lawyer would receive.

65. Respondent associated with Raffa as co-counsel on the personal injury case.

66. Respondent and Raffa agreed to share attorney fees with sixty percent (60%) to Raffa and forty percent (40%) to Respondent.

67. SK did not enter into an agreement, confirmed in writing, to the share of fees each lawyer would receive.

68. In or around July 2016, Raffa settled SK's case with Farmers Insurance for $8,557.71.

69. Raffa deposited the $8,557.71 into Raffa's trust account on or about August 2, 2016.

70. On or about August 18, 2016, Raffa and/or Raffa's staff emailed SK Disbursal Instructions and a Settlement Authorization.

71. The email stated, in part, "[t]he first set of settlement instructions are for costs alone so that no attorney's fees are taken out. The second set is for the proceeds of the settlement from which attorney's fees are deducted."

72. The Disbursal Instructions provided that the $8,557.71 would be disbursed as follows:

a. $557.71 to Respondent for costs;

b. $2,666.67 for attorney fees;

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c. $2,632.98 to State Farm for PIP lien payment;

d. $601.28 to SK for lost wages and $2,099.07 for general damages.

73. On or about August 29, 2016, Raffa sent State Farm a letter and a check in the amount of 1,755.32 to pay State Farm's subrogated interest in SK's settlement.

74. The letter stated, in part:

> This amount represents the balance after the one-third (1/3) deduction for attorney's, i.e. *Mahler*, fees." The *Mahler* fees totaled $877.66.

75. On or about August 26, 2016, Raffa disbursed $526.60 of the *Mahler* fees to Raffa's firm.

76. On or about August 29, 2016, Raffa disbursed $351.06 of the *Mahler* fees to Respondent.

77. Respondent and Raffa were not entitled to the *Mahler* fees.

78. SK was entitled to receive the *Mahler* fees.

79. Respondent did not promptly pay or deliver the $351.06 to SK.

80. Respondent's fees were unreasonable.

Client HR

81. On or about December 29, 2012, HR was involved in a motor vehicle accident.

82. HR was insured by Mutual of Enumclaw Insurance Company and had PIP coverage under the policy.

83. The at-fault party was insured by QBE Insurance Corporation.

84. On or about January 23, 2016, Respondent and HR entered into a written fee agreement for a contingency fee of 33-1/3% of the "amount collected or recovered" in HR's personal injury case.

85. Under the agreement, Respondent reserved the right to associate with Raffa's law

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office and to divide fees with Raffa. The agreement did not set forth the share of fees each lawyer would receive.

86. Respondent referred HR to Raffa.

87. On or about December 7, 2015, Raffa and HR entered into a written fee agreement for a contingency fee of 33-1/3% of "all amounts recovered, including, but not limited to: interest, costs, attorneys' fees, medical expenses, property damage repair costs, judgments, insurance company payments, and settlements, and sales tax thereon if any."

88. Raffa and Respondent agreed to share attorney fees with 60% to Raffa and 40% to Respondent.

89. HR did not enter into an agreement, confirmed in writing, to the share of fees each lawyer would receive.

90. In or around December 2015, Raffa settled HR's case with QBE Insurance for $25,000.

91. Raffa deposited the $25,000 into Raffa's trust account on or about January 4, 2016.

92. In January 2016, Raffa provided Disbursal Instructions and a Settlement Authorization to HR.

93. The Disbursal Instructions provided that the $25,000 would be disbursed as follows:

a. $466.75 to Respondent for costs;

b. $7,500 for reduced attorney fees;

c. $6,282.55 for Mutual of Enumclaw's subrogation lien;

d. $10,750.70 for general damages to HR.

94. On or about January 26, 2016, Raffa sent Mutual of Enumclaw a letter and check in the amount of $4,188.37 to pay Mutual of Enumclaw's subrogated interest in HR's settlement.

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95. The letter stated, in part:

> This amount represents the balance after the one-third (1/3) deduction for attorney's, i.e. *Mahler*, fees.

96. On or about January 26, 2016, Raffa disbursed $1,256.51 of the *Mahler* fees to Raffa's firm.

97. On or about January 26, 2016, Raffa disbursed $837.67 of the *Mahler* fees to Respondent.

98. Respondent and Raffa were not entitled to the *Mahler* fees.

99. HR was entitled to receive the *Mahler* fees.

100. Respondent did not promptly pay or deliver the $837.67 to HR.

101. Respondent's fees were unreasonable.

Client DJ

102. On or about September 12, 2013, DJ was involved in a motor vehicle accident.

103. DJ was insured by USAA and had PIP coverage under the policy.

104. The at-fault party was insured by Liberty Mutual Insurance.

105. On or about February 25, 2014, Respondent and DJ entered into a written fee agreement for a contingency fee of 33-1/3% of the "amount collected or recovered" in DJ's personal injury case.

106. Under the agreement, Respondent reserved the right to associate with Raffa's law office and to divide fees with Raffa. The agreement did not set forth the share of fees each lawyer would receive.

107. Respondent referred DJ to Raffa.

108. In February 2016, Raffa and DJ entered into a written fee agreement for a contingency fee of 33-1/3% of "all amounts recovered, including, but not limited to: interest,

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costs, attorneys' fees, medical expenses, property damage repair costs, judgments, insurance company payments, and settlements, and sales tax thereon if any."

109. Respondent and Raffa agreed to share attorney fees with 60% to Raffa and 40% to Respondent.

110. DJ did not enter into an agreement, confirmed in writing, to the share of fees each lawyer would receive.

111. In or around November 2016, Raffa settled DJ's case with Liberty Mutual for $16,000.

112. Raffa deposited the $16,000 into Raffa's trust account on or about November 16, 2016.

113. In November 2016, Raffa provided Disbursal Instructions and a Settlement Authorization to DJ.

114. The Disbursal Instructions provided that the $16,000 would be disbursed as follows:

a. $670.67 to Respondent for costs;

b. $5,333.33 for attorney fees;

c. $220.96 to USAA for subrogation (Multicare);

d. $1,714.76 to USAA for subrogation (Tacoma Physical Therapy);

e. $3,376 to ACTS Chiropractic Center;

f. $4,684.28 to DJ for general damages.

115. On or about November 29, 2016, Raffa disbursed $1,290.48 to USAA for USAA's subrogation interest in DJ's settlement.

116. On or about November 29, 2016, Raffa disbursed to Raffa's firm $3,200 for

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attorney fees and $387.14 for *Mahler* fees contributed by USAA.

117. On or about November 29, 2016, Raffa disbursed to Respondent $2,133.33 for attorney fees and $258.10 for *Mahler* fees contributed by USAA.

118. Respondent and Raffa were not entitled to the *Mahler* fees.

119. DJ was entitled to receive the *Mahler* fees.

120. Respondent did not promptly pay or deliver the $258.10 to DJ.

121. Respondent's fees were unreasonable.

Client SE

122. On or about February 19, 2015, SE was involved in a motor vehicle accident in the State of Wisconsin.

123. SE was insured by Allstate Insurance and had PIP coverage under the policy.

124. The at-fault party was insured by Badger Mutual Insurance Company.

125. On or about March 13, 2015, Raffa entered into a written fee agreement with SE and SE's spouse, GE, for a contingency fee of 33-1/3% of "all amounts recovered, including, but not limited to: interest, costs, attorneys' fees, medical expenses, property damage repair costs, judgments, insurance company payments, and settlements, and sales tax thereon if any."

126. The agreement authorized Raffa to associate with other counsel provided it did not increase SE's obligation for attorney fees. The agreement did not set forth the share each lawyer would receive.

127. Respondent and Raffa agreed to share attorney fees with 60% to Raffa and 40% to Respondent.

128. SE did not enter into an agreement, confirmed in writing, to the share of fees each lawyer would receive.

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129. In or around December 2017, Raffa settled SE's case with Badger Insurance for $20,000.

130. Raffa deposited the $20,000 into Raffa's trust account on or about December 12, 2017.

131. In December 2017, Raffa provided Disbursal Instructions and a Settlement Authorization to SE.

132. The Disbursal Instructions provided that the $20,000 would be disbursed as follows:

a. $183.60 to Respondent for costs;

b. $6,666.67 to Raffa for attorney fees;

c. $647.00 to Allstate for subrogation lien (fire department);

d. $6,451.71 to Allstate for subrogation lien (hospital);

e. $756.00 to Allstate for subrogation lien (medical associates);

f. $492.00 to Allstate for subrogation lien (radiology);

g. $299.96 to UMR for subrogation lien;

h. $4,503.06 to SE for general damages.

133. On or about December 15, 2017, Raffa disbursed $5,564.47 to Allstate for its subrogation lien(s).

134. On or about December 18, 2017, Raffa disbursed to Raffa's firm $4,000 for attorney fees and $1,669.34 for *Mahler* fees.

135. On or about December 18, 2017, Raffa disbursed to Respondent $2,666.67 for attorney fees and $1,112.90 for *Mahler* fees.

136. Respondent and Raffa were not entitled to the *Mahler* fees.

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137. As a Wisconsin matter, *Mahler* fees and/or *Mahler v. Szucs*, 135 Wn.2d 396, 957 P.2d 632 (1998) did not apply to SE's case.

138. SE was entitled to receive the funds collected by Raffa and Respondent as *Mahler* fees.

139. Respondent did not promptly pay or deliver the $1,112.90 to SE.

140. Respondent's fees were unreasonable.

Trust Account Records

141. During the period October 2014 through February 2016 (review period), Respondent personally maintained the records for the trust account.

142. During the review period, Respondent did not maintain a complete and/or current check register for the trust account.

143. During the review period, Respondent did not maintain complete and/or current client ledgers.

144. During the review period, Respondent did not maintain bank statement reconciliations and/or client ledger reconciliations.

145. During the review period, Respondent did not maintain copies of trust account bank statements, deposit slips, and/or cancelled checks.

146. As of February 29, 2016, Respondent's trust account balance was $25,953.93.

147. Respondent did not maintain records identifying the clients and/or third persons who owned the $25,953.93.

COUNT 1

148. By using and/or converting *Mahler* and/or similar fees for Respondent's own benefit and/or the benefit of others without entitlement to the funds, Respondent violated RPC

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1.15A(b) and/or RPC 8.4(c).

COUNT 2

149. By failing to maintain client and/or third person funds in a trust account, Respondent violated RPC 1.15A(c).

COUNT 3

150. By charging and/or collecting an unreasonable fee, Respondent violated RPC 1.5(a).

COUNT 4

151. By failing to promptly pay or deliver funds that clients and/or third persons were entitled to receive, Respondent violated RPC 1.15A(f).

COUNT 5

152. By providing clients with false, misleading, and/or incomplete disbursal instructions, by misrepresenting the amounts paid for subrogation, attorney fees, and/or the amounts clients were due to receive, and/or by failing to provide clients with an accurate written accounting after distributing funds from the trust account, Respondent violated RPC 1.4, RPC 1.5(c)(3), RPC 1.15A(e), and/or RPC 8.4(c).

COUNT 6

153. By entering sharing legal fees with Raffa, without meeting the requirements of RPC 1.5(e)(1), Respondent violated RPC 1.5(e).

COUNT 7

154. By failing to maintain a complete and/or current trust account check register, Respondent violated RPC 1.15A(h)(2) and/or RPC 1.15B(a)(1).

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COUNT 8

155. By failing to maintain complete and/or current client ledgers, Respondent violated RPC 1.15A(h)(2) and/or RPC 1.15B(a)(2).

COUNT 9

156. By failing to reconcile the trust account check register to the bank statements and/or the trust account check register to the client ledgers and/or by failing to maintain copies of the reconciliations, Respondent violated RPC 1.15A(h)(6) and/or RPC 1.15B(a)(8).

THEREFORE, Disciplinary Counsel requests that a hearing be held under the Rules for Enforcement of Lawyer Conduct. Possible dispositions include disciplinary action, probation, restitution, and assessment of the costs and expenses of these proceedings.

Dated this 14th day of April, 2023

Marsha Matsumoto

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Managing Disciplinary Counsel

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CONFIDENTIAL ATTACHMENT A