

FILED

Nov 14, 2024

Disciplinary
Board

Docket # 033

DISCIPLINARY BOARD
WASHINGTON STATE BAR ASSOCIATION

In re

IVAN CULBERTSON,

Lawyer (Bar No. 30462).

Proceeding No. 23#00062

ODC File Nos. 23-00296 and 23-00608

STIPULATION TO 30-DAY SUSPENSION

Following settlement conference conducted
under ELC 10.12(h)

Under Rule 9.1 of the Washington Supreme Court's Rules for Enforcement of Lawyer Conduct (ELC), and following a settlement conference conducted under ELC 10.12(h), the following Stipulation to 30-Day Suspension is entered into by the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through disciplinary counsel Henry Cruz, Respondent's Counsel Pamela Jo DeVet, and Respondent lawyer Ivan Culbertson.

Respondent understands that Respondent is entitled under the ELC to a hearing, to present exhibits and witnesses on Respondent's behalf, and to have a hearing officer determine the facts, misconduct and sanction in this case. Respondent further understands that Respondent is entitled under the ELC to appeal the outcome of a hearing to the Disciplinary Board, and, in certain cases, the Supreme Court. Respondent further understands that a hearing and appeal could result in an outcome more favorable or less favorable to Respondent. Respondent chooses to resolve this

proceeding now by entering into the following stipulation to facts, misconduct, and sanction to avoid the risk, time, and expense attendant to further proceedings.

I. ADMISSION TO PRACTICE

1. Respondent was admitted to practice law in the State of Washington on November 14, 2000.

II. STIPULATED FACTS

Hernandez Pedraza Grievance (ODC File No. 23-00296)

2. On or about July 18, 2022, Respondent met with Guillermina Hernandez Pedraza, Susana Naranjo, and Hernandez Pedraza's daughter regarding a petition for divorce that Hernandez Pedraza had already filed pro se (Hernandez v. Cisneros Silva, Cowlitz County Superior Court Case No. 21-3-00488-08).

3. Respondent knew that Naranjo was "a friend or an associate" of Hernandez Pedraza helping Hernandez Pedraza in the divorce matter.

4. Respondent agreed to represent Hernandez Pedraza in the divorce matter through entry of temporary orders.

5. Respondent also agreed to prepare the first interrogatories and requests for production in the divorce matter.

6. Respondent received a flat fee of \$4,500 from Hernandez Pedraza for representation in the divorce matter.

7. On July 25, 2022, Respondent filed a notice of appearance in the divorce matter.

8. On August 1, 2022, Respondent emailed Hernandez Pedraza a motion for temporary family law order and supporting declaration for Hernandez Pedraza to review.

9. Later on August 1, 2022, Respondent received an email from Hernandez Pedraza

1 providing two suggested edits to the supporting declaration and telling Respondent that the rest
2 looked fine.

3 10. Respondent did not respond to Hernandez Pedraza's August 1, 2022 email.

4 11. Respondent never filed the motion for temporary family law order.

5 12. Respondent never filed the supporting declaration. Hernandez Pedraza filed the
6 supporting declaration pro se.

7 13. Respondent did not prepare the first interrogatories.

8 14. Respondent did not prepare the requests for production.

9 15. Respondent did not perform any other work in the matter.

10 16. On at least four occasions in August 2022, Respondent received voicemails from
11 Susana Naranjo inquiring on the status of the matter on behalf of Hernandez Pedraza.

12 17. In at least three of Naranjo's voicemails in August 2022, Respondent was asked to call
13 either Naranjo or Hernandez Pedraza.

14 18. On August 30, 2022, Respondent received a voicemail from Hernandez Pedraza
15 inquiring on the status of the matter.

16 19. On September 14, 2022, Respondent received an email from Hernandez Pedraza
17 asking Respondent to return their calls.

18 20. Respondent never responded to any of these attempts at communication.

19 21. After the grievance was filed, Respondent refunded a total of \$3,000 to Hernandez
20 Pedraza.

21 22. After the Formal Complaint was filed, Respondent refunded an additional \$1,500 to
22 Hernandez Pedraza.

23 Failure to Cooperate (ODC File No. 23-00296)

23. On June 1, 2023, Respondent received a letter via email from ODC requesting a copy of the complete client file for Hernandez Pedraza and all written materials related to correspondence with or regarding Hernandez Pedraza within 30 days.

24. Respondent did not submit the requested materials within 30 days of the June 1, 2023 letter.

25. On July 5, 2023, Respondent received a letter via email from ODC asking for the requested materials by July 17, 2023.

26. Respondent did not submit the requested materials by July 17, 2023.

27. On July 18, 2023, Respondent received an email from ODC again asking for the requested materials.

28. Respondent did not respond to the July 18, 2023 email.

29. On July 25, 2023, Respondent was served a subpoena commanding Respondent to appear for a deposition on August 8, 2023.

30. Respondent was also commanded by the subpoena to provide the requested materials by July 31, 2023.

31. On July 28, 2023, Respondent submitted a portion of the requested materials.

32. On August 9 and 10, 2023, Respondent submitted the remaining portion of the requested materials.

Ana Mendoza Grievance (ODC File No. 23-00608)

33. On or about May 20, 2022, Respondent agreed to represent Ana Mendoza in a divorce matter up to the settlement conference for a flat fee of \$3,000.

34. On or about June 7, 2022, Respondent received the agreed upon \$3,000.

35. On June 14, 2022, Respondent emailed Mendoza several documents for Mendoza's

1 review, including the divorce petition, summons, motion for temporary family law order, a
2 proposed parenting plan, and a child support worksheet.

3 36. In the June 14, 2022 email, Respondent told Mendoza that Respondent would be
4 sending another three documents.

5 37. In the June 14, 2022 email, Respondent also told Mendoza that the next step was to
6 “meet to sign the documents and file them with the court.”

7 38. Respondent never drafted the other three documents.

8 39. Respondent never met with Mendoza to sign the documents.

9 40. Respondent never filed the documents.

10 41. Respondent did not perform any other work in the matter.

11 42. Between October 2022 to January 2023, Respondent received multiple calls and
12 voicemails from Mendoza to check on the status of the divorce matter.

13 43. Respondent did not return any of Mendoza’s calls.

14 44. On or about February 6, 2023, Respondent received a letter from Mendoza requesting
15 a full refund.

16 45. Respondent did not refund the \$3,000 flat fee to Mendoza until September 2023, after
17 the grievance was filed.

18 Failure to Cooperate (ODC File No. 23-00608)

19 46. On May 10, 2023, Respondent received a letter via email from ODC requesting a
20 written response to the grievance within 30 days.

21 47. Respondent did not submit a written response to the May 10, 2023 letter.

22 48. On June 12, 2023, Respondent received a letter via email from ODC asking for a
23 response to the grievance by June 22, 2023.

49. Respondent did not submit a written response to the June 12, 2023 letter.

50. On June 28, 2023, Respondent was served a subpoena commanding Respondent to appear for a deposition on July 11, 2023.

51. At the July 11, 2023 deposition, Respondent answered questions about the grievance.

III. STIPULATION TO MISCONDUCT

52. By failing to perform the agreed-upon work in two divorce matters and by unreasonably delaying both matters, Respondent violated RPC 1.3 and RPC 3.2.

53. By failing to promptly comply with reasonable requests for information and by failing to communicate with the clients regarding the status of the divorce matters, Respondent violated RPC 1.4.

54. By failing to promptly refund unearned fees after the termination of representation, Respondent violated RPC 1.5(a) and RPC 1.16(d).

55. By failing to timely respond to ODC's multiple requests for information, Respondent violated RPC 8.1(b), RPC 8.4(l) (by violating ELC 5.3(f)), and RPC 8.4(d).

IV. PRIOR DISCIPLINE

56. Respondent has no prior public disciplinary history.

V. APPLICATION OF ABA STANDARDS

57. The following American Bar Association Standards for Imposing Lawyer Sanctions (1991 ed. & Feb. 1992 Supp.) apply to this case:

4.4 Lack of Diligence

4.41 Disbarment is generally appropriate when:

- (a) a lawyer abandons the practice and causes serious or potentially serious injury to a client; or
- (b) a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; or
- (c) a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.

1 4.42 Suspension is generally appropriate when:

2 (a) a lawyer knowingly fails to perform services for a client and causes
injury or potential injury to a client, or

3 (b) a lawyer engages in a pattern of neglect and causes injury or
potential injury to a client.

4 4.43 Reprimand is generally appropriate when a lawyer is negligent and does
not act with reasonable diligence in representing a client, and causes injury
or potential injury to a client.

5 4.44 Admonition is generally appropriate when a lawyer is negligent and does not act
with reasonable diligence in representing a client, and causes little or no actual or
6 potential injury to a client.

7 ***7.0 Violations of Duties Owed as a Professional***

8 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
9 potentially serious injury to a client, the public, or the legal system.

10 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.

11 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.

12 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
13 or no actual or potential injury to a client, the public, or the legal system.

14 58. Respondent acted knowingly in all misconduct.

15 59. Respondent's misconduct in the divorce matters caused actual injury by delaying the
16 clients' matters and depriving the clients of information about their cases and of their funds.

17 60. Respondent's failure to cooperate in the disciplinary investigations caused actual
18 injury by preventing ODC from fully and timely investigating the grievances, and it also reflects
19 poorly on the profession and diminishes public confidence in the legal system.

20 61. The presumptive sanction is suspension.

21 62. The following aggravating factors apply under ABA Standard 9.22:

22 (d) multiple offenses; and

23 (i) substantial experience in the practice of law [admitted in 2000].

63. The following mitigating factor applies under ABA Standard 9.32:

- (a) absence of a prior disciplinary record;
- (b) absence of a dishonest or selfish motive;
- (c) personal or emotional problems (see attachment A); and
- (d) remorse.

64. On balance, the aggravating and mitigating factors do not require a departure from the presumptive sanction of suspension but do warrant a shorter suspension than the presumptive length of suspension (six months).

VI. STIPULATED DISCIPLINE

65. The parties stipulate that Respondent shall receive a 30-day suspension.

VII. CONDITIONS OF REINSTATEMENT

66. Reinstatement from suspension is conditioned on payment of costs and expenses, as provided below.

VIII. CONDITIONS OF PROBATION

67. Respondent will be subject to probation for a period of one year beginning on the date Respondent is reinstated to the practice of law.

68. Respondent shall comply with the specific probation terms set forth below. Failure to comply with a condition of probation listed herein may be grounds for further disciplinary action under ELC 13.8(b).

Practice Monitor

69. During the period of probation, Respondent's practice will be supervised by a practice monitor. The practice monitor must be a member of the Washington State Bar Association with no record of public discipline and who is not the subject of a pending public disciplinary proceeding.

70. The role of the practice monitor is to consult with and provide guidance to Respondent

1 regarding case management, office management, and avoiding violations of the Rules of
2 Professional Conduct, and to provide reports and information to the Probation Administrator
3 regarding Respondent's compliance with the terms of probation and the RPC. The practice
4 monitor does not represent the Respondent.

5 71. At the beginning of the probation period, the Probation Administrator will select a
6 lawyer to serve as practice monitor for the period of Respondent's probation.

7 a) Initial Challenge: If, within 15 days of the written notice of the selection of a
8 practice monitor, Respondent sends a written request to the Probation
9 Administrator that another practice monitor be selected, the Probation
Administrator will select another practice monitor. Respondent need not identify
any basis for this initial request.

10 b) Subsequent Challenges: If, after selection of a second (or subsequent) practice
11 monitor, Respondent believes there is good cause why that individual should not
12 serve as practice monitor, Respondent may, within 15 days of notice of the
13 selected practice monitor, send a written request to the Probation Administrator
14 asking that another practice monitor be selected. That request must articulate
15 good cause to support the request. If the Probation Administrator agrees, another
practice monitor will be selected. If the Probation Administrator disagrees, the
Office of Disciplinary Counsel will submit its proposed selection for practice
monitor to the Chair of the Disciplinary Board for appointment pursuant to ELC
13.8(a)(2), and will also provide the Chair with the Respondent's written request
that another practice monitor be selected.

16 72. In the event the practice monitor is no longer able to perform the practice monitor's
17 duties, the Probation Administrator will select a new practice monitor at the Probation
18 Administrator's discretion.

19 73. During the period of probation, Respondent must cooperate with the named practice
20 monitor. Respondent must meet with the practice monitor at least once per month. Respondent
21 must communicate with the practice monitor to schedule all required meetings.

22 74. Respondent must bring to each meeting a current, complete written list of all pending
23 client legal matters being handled by Respondent. The list must identify the current status of each

1 client matter and any problematic issues regarding each client matter. The list may identify clients
2 by using the client's initials rather than the client's name.

3 75. At each meeting, the practice monitor will discuss with Respondent practice issues
4 that have arisen or are anticipated. In light of the conduct giving rise to the imposition of
5 probation, ODC recommends that the practice monitor and Respondent discuss whether
6 Respondent is diligently making progress on each client matter, whether Respondent is in
7 communication with each client, whether Respondent has promptly billed each client, whether
8 Respondent's fee agreements are consistent with the RPC and are understandable to the client,
9 and whether Respondent needs to consider withdrawing from any client matters. Meetings may
10 be in person or by telephone at the practice monitor's discretion. The practice monitor uses
11 discretion in determining the length of each meeting.

12 76. The practice monitor will provide the Probation Administrator with quarterly written
13 reports regarding Respondent's compliance with probation terms and the RPC. Each report must
14 include the date of each meeting with Respondent, a brief synopsis of the discussion topics, and
15 a brief description of any concerns the practice monitor has regarding the Respondent's
16 compliance with the RPC. The report must be signed by the practice monitor. Each report is due
17 within 30 days of the completion of the quarter.

18 77. If the practice monitor believes that Respondent is not complying with any of
19 Respondent's ethical duties under the RPC or if Respondent fails to schedule or attend a monthly
20 meeting, the practice monitor will promptly communicate that to the Probation Administrator.

21 78. Respondent must make payments totaling \$1,000 to the Washington State Bar
22 Association to defray the costs and expenses of administering the probation, as follows:

23 a) \$250 due within 3 months of the start of the probation period;

b) \$250 due within 6 months of the start of the probation period;

c) \$250 due within 9 months of the start of the probation period; and

d) \$250 due within 12 months of the start of the probation period.

79. All payments should be provided to the Probation Administrator for processing.

Practice Management Assistance

80. Respondent shall consult with Ann Guinn with respect to law office management.

Guinn can be reached at ann@anguinnconsulting.com and (253) 946-1896.

81. Respondent shall consult with Guinn to discuss and implement procedures concerning all of the following issues:

- Dealing with clients and managing their expectations
- Fee agreements
- Staff communication and supervision
- Calendaring/Docketing
- Time management
- Office layout and organization
- Other issues as appropriate.

82. Respondent shall contact Guinn to schedule a consultation within 15 days of the commencement of the probation period. The consultation shall take place no later than 30 days thereafter.

83. Respondent understands that Guinn may establish dates by which Respondent must comply with recommendations made and for follow-up communication. Respondent agrees to comply with these dates. These subsequent contacts may be in person, email, or telephone, at the sole discretion of Guinn.

84. Respondent authorizes Guinn to report immediately to the Probation Administrator if Respondent fails to comply with any requirements or terms.

85. Respondent shall pay a flat fee of \$650 for Guinn's services.

86. Respondent agrees to respond promptly to all inquiries from Guinn and the Probation Administrator regarding Respondent's compliance with the practice management requirements described herein.

Ethics School

87. Respondent shall attend Ethics School by webinar (approximately 7.5 hours), or by obtaining the recorded product, and pay registration costs of \$150 plus applicable sales tax. Respondent will receive all applicable approved CLE credits for time in attendance at the Ethics School.

88. Attendance at Ethics School is in addition to and shall not fulfill any continuing legal education (CLE) requirements set out in this stipulation.

89. Respondent shall contact the Ethics School Administrator, currently Chris Chang, at (206) 727-8328 or chrisc@wsba.org, within 15 days of the commencement of the probation period to confirm enrollment in Ethics School and related logistics.

90. Respondent shall complete the ethics school requirement within 90 days of the commencement of the probation period.

91. Respondent shall provide evidence of completion of ethics school to the Probation Administrator no later than 30 days after the conclusion of the course. Proof of attendance shall include the program brochure, evidence of payment, and a written statement that includes the date and time of attendance.

92. Respondent may contact the Ethics School administrator directly to enroll in Ethics

1 School, and administrative communications, e.g. regarding registration, payment, program
2 content and schedule, and CLE credits, may be sent directly to Respondent.

3 93. The Ethics School administrator may respond to inquiries from the Probation
4 Administrator regarding Respondent's compliance with these conditions.

5 **IX. RESTITUTION**

6 94. No restitution is required by this Stipulation.

7 **X. COSTS AND EXPENSES**

8 95. Respondent shall pay attorney fees and administrative costs of \$750, plus an additional
9 \$195 for incurred interpreter and translation costs (total of \$945), in accordance with ELC 13.9(i).
10 The Association will seek a money judgment under ELC 13.9(l) if these costs are not paid within
11 30 days of approval of this stipulation. Reinstatement from suspension is conditioned on payment
12 of costs.

13 **XI. VOLUNTARY AGREEMENT**

14 96. Respondent states that prior to entering into this Stipulation Respondent has consulted
15 independent legal counsel regarding this Stipulation, that Respondent is entering into this
16 Stipulation voluntarily, and that no promises or threats have been made by ODC, the Association,
17 nor by any representative thereof, to induce the Respondent to enter into this Stipulation except
18 as provided herein.

19 97. Once fully executed, this stipulation is a contract governed by the legal principles
20 applicable to contracts, and may not be unilaterally revoked or modified by either party.

21 **XII. LIMITATIONS**

22 98. This Stipulation is a compromise agreement intended to resolve this matter in
23 accordance with the purposes of lawyer discipline while avoiding further proceedings and the

1 expenditure of additional resources by the Respondent and ODC. Both the Respondent and ODC
2 acknowledge that the result after further proceedings in this matter might differ from the result
3 agreed to herein.

4 99. This Stipulation is not binding upon ODC or the respondent as a statement of all
5 existing facts relating to the professional conduct of the Respondent, and any additional existing
6 facts may be proven in any subsequent disciplinary proceedings.

7 100. This Stipulation results from the consideration of various factors by both parties,
8 including the benefits to both by promptly resolving this matter without the time and expense of
9 hearings, Disciplinary Board appeals, and Supreme Court appeals or petitions for review. As
10 such, approval of this Stipulation will not constitute precedent in determining the appropriate
11 sanction to be imposed in other cases; but, if approved, this Stipulation will be admissible in
12 subsequent proceedings against Respondent to the same extent as any other approved Stipulation.

13 101. Under ELC 9.1(d)(4), the Disciplinary Board reviews a stipulation based solely on
14 the record agreed to by the parties. Under ELC 3.1(b), all documents that form the record before
15 the Board for its review become public information on approval of the Stipulation by the Board,
16 unless disclosure is restricted by order or rule of law.

17 102. If this Stipulation is approved by the Disciplinary Board and Supreme Court, it
18 will be followed by the disciplinary action agreed to in this Stipulation. All notices required in
19 the Rules for Enforcement of Lawyer Conduct will be made. Respondent represents that
20 Respondent is not admitted to practice law in any other jurisdictions.

21 103. If this Stipulation is not approved by the Disciplinary Board and Supreme Court,
22 this Stipulation will have no force or effect, and neither it nor the fact of its execution will be
23 admissible as evidence in the pending disciplinary proceeding, in any subsequent disciplinary

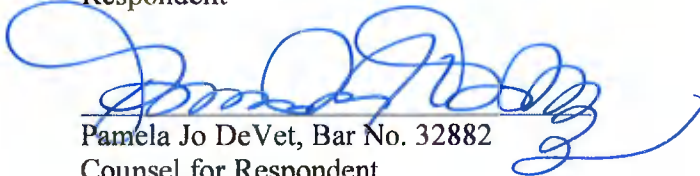
1 proceeding, or in any civil or criminal action.

2 WHEREFORE the undersigned being fully advised, adopt and agree to this Stipulation to
3 30-Day Suspension as set forth above.

4 

5 Ivan Culbertson, Bar No. 30462
6 Respondent

Dated: 8/15/2024

7 

8 Pamela Jo DeVet, Bar No. 32882
9 Counsel for Respondent

Dated: 8/15/2024

10 

11 Henry Cruz, Bar No. 38799
12 Senior Disciplinary Counsel

Dated: 08/15/2024

ATTACHMENT A

Sometime in 2022, Respondent began to experience fatigue, overwhelm, and other symptoms that he attributed to stress and taking on too much work. Respondent believes that these symptoms affected his representation of Mendoza and Hernandez Pedraza, as well as Respondent's responses to the bar. In December 2023, Respondent was diagnosed with atrial fibrillation with rapid ventricular response and prescribed medication. Symptoms of atrial fibrillation include fatigue.