

**FILED**

Mar 19, 2024

**Disciplinary  
Board**

**Docket # 003**

DISCIPLINARY BOARD  
WASHINGTON STATE BAR ASSOCIATION

In re

**RYAN M. BEST,**

Lawyer (Bar No. 33672).

Proceeding No. 23#00052

ODC File No. 22-00207

STIPULATION TO REPRIMAND

Under Rule 9.1 of the Washington Supreme Court's Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to Reprimand is entered into by the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through disciplinary counsel Erica Temple, Respondent's Counsel Joseph W. Kuhlman and Respondent lawyer Ryan M. Best.

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

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

### 3 I. ADMISSION TO PRACTICE

4 1. Respondent was admitted to practice law in the State of Washington on June 18, 2003.

### 5 II. STIPULATED FACTS

6 2. Respondent was lead counsel on behalf of Plaintiff Magdi Gergawy in Gergawy et al.  
7 v. United States Bakery, Inc., United States District Court, Eastern District of Washington No.  
8 2:19-CV-00417-SAB, filed in December 2019.

9 3. Respondent, on behalf of Gergawy, drafted a Declaration of Magdi Gergawy in  
10 Opposition to Defendant's Motions for Summary Judgement (Declaration), signed under penalty  
11 of perjury by Gergawy.

12 4. There were 37 exhibits to the Declaration.

13 5. Exhibit 3 was a three-page email chain. The pages were combined in such a way that  
14 the email communications appeared to be part of a single thread.

15 6. In fact, Exhibit 3 was a combination of two separate emails sent almost a year apart.

16 7. The first page of Exhibit 3 was correspondence sent and received in May 2019, and  
17 was incomplete in that the beginning page of the email thread was not included.

18 8. The second and third pages of Exhibit 3 were sent and received in April 2020 and  
19 included different recipients.

20 9. The Declaration identified Exhibit 3, incorrectly, as "a true and correct copy of an  
21 email."

22 10. Respondent had combined the email chains in Exhibit 3 when Respondent was  
23 working late into the night and made last minute changes to the exhibits, but failed to revise the

1 Declaration to reflect the change.

2 11. The original versions of the emails in Exhibit 3 were already part of the court record  
3 and had been produced by the defense as part of discovery. They were also Bates numbered; the  
4 first page of the combined exhibit was Bates numbered 2042; the second page was 2002.

5 12. Respondent acted negligently in compiling Exhibit 3.

6 13. Exhibit 5 was a screenshot of a text message. The version filed with the court was  
7 cropped and did not show the sender's name.

8 14. The Declaration identified the sender of the text message in Exhibit 5 as T.K. (one  
9 of the defendants in the case), but in fact the sender was someone else, A.M.

10 15. Respondent believes that default printer settings caused the text message in Exhibit  
11 5 to be cropped.

12 16. The same text message exhibit, correctly identified, had been filed with the court  
13 twice before.

14 17. Respondent acted negligently in failing to correctly identify the sender of the text  
15 message in Exhibit 5.

16 18. Respondent acted negligently in ensuring that the client's Declaration was correct.

17 19. On July 20, 2021, Respondent's firm filed the Declaration as described above.

18 20. On August 3, 2021, a defendant filed a Motion for Sanctions or for a Show Cause  
19 Hearing relating to Exhibits 3 and 5.

20 21. On September 23, 2021, Respondent filed a corrected pleading with the court.

21 22. The court held a show cause hearing on October 28, 2021.

22 23. On February 8, 2022, the court issued an Order Dismissing Action (Order).

23 24. The court dismissed the case, finding that the defendants were entitled to judgement

1 as a matter of law and granted summary judgement. The court also dismissed the action as a  
2 sanction against Respondent for misrepresentations of fact and evidence.

3 25. On May 7, 2022, the plaintiffs filed an appeal from the Order.

4 26. The case was later settled through the Ninth Circuit mediation process.

5 27. On May 27, 2022, the appeal was dismissed.

### 6 III. STIPULATION TO MISCONDUCT

7 28. By drafting a client's Declaration that contained incorrect factual assertions, and  
8 causing it to be filed with the court, Respondent violated RPC 8.4(d).

### 9 IV. PRIOR DISCIPLINE

10 29. Respondent has no prior discipline.

### 11 V. APPLICATION OF ABA STANDARDS

12 30. The following American Bar Association Standards for Imposing Lawyer Sanctions  
13 (1991 ed. & Feb. 1992 Supp.) apply to this case:

14 ABA Standard 6.1 is most applicable to violations of RPC 8.4(d):

15 6.11 Disbarment is generally appropriate when a lawyer, with the intent to deceive the  
16 court, makes a false statement, submits a false document, or improperly withholds  
17 material information, and causes serious or potentially serious injury to a party, or  
causes a significant or potentially significant adverse effect on the legal  
proceeding.

18 6.12 Suspension is generally appropriate when a lawyer knows that false statements or  
documents are being submitted to the court or that material information is  
19 improperly being withheld, and takes no remedial action, and causes injury or  
potential injury to a party to the legal proceeding, or causes an adverse or  
potentially adverse effect on the legal proceeding.

20 6.13 Reprimand is generally appropriate when a lawyer is negligent either in  
determining whether statements or documents are false or in taking remedial  
21 action when material information is being withheld, and causes injury or potential  
injury to a party to the legal proceeding, or causes an adverse or potentially adverse  
22 effect on the legal proceeding.

23 6.14 Admonition is generally appropriate when a lawyer engages in an isolated instance  
of neglect in determining whether submitted statements or documents are false or  
24 in failing to disclose material information upon learning of its falsity, and causes

1 little or no actual or potential injury to a party, or causes little or no adverse or  
2 potentially adverse effect on the legal proceeding.

3 31. Respondent acted negligently in drafting the Declaration and ensuring that it was  
4 correct.

5 32. Respondent caused interference and adverse effects on the legal proceedings and the  
6 plaintiff's case.

7 33. The presumptive sanction is reprimand.

8 34. The following aggravating factor applies under ABA Standard 9.22:

9 (i) substantial experience in the practice of law.

10 35. The following mitigating factor applies under ABA Standard 9.32:

11 (a) absence of a prior disciplinary record.

12 36. It is an additional mitigating factor that Respondent has agreed to resolve this matter  
13 at an early stage of the proceedings.

14 37. On balance the aggravating and mitigating factors do not require a departure from the  
15 presumptive sanction.

## 16 VI. STIPULATED DISCIPLINE

17 38. The parties stipulate that Respondent shall receive a reprimand.

## 18 VII. CONDITIONS OF PROBATION

19 39. Respondent will be subject to probation for a period of six-months beginning when  
20 this stipulation receives final approval and shall comply with the specific probation terms set forth  
21 below.

22 40. Respondent's compliance with these conditions shall be monitored by the Probation  
23 Administrator of the Office of Disciplinary Counsel ("Probation Administrator"). Failure to  
24 comply with a condition of probation listed herein may be grounds for further disciplinary action

1 under ELC 13.8(b).

2 41. Respondent agrees to a telephone consultation of at least two hours with an ethics  
3 consultant approved by the Probation Administrator regarding candor towards a tribunal. The  
4 consultation shall occur within 60 days of the final approval of this stipulation. Within two weeks  
5 of this consultation, Respondent shall provide proof to the Probation Administrator of the meeting  
6 in the form of a written statement that includes the date, time, and a brief summary of the  
7 consultation.

8 42. Respondent agrees to pay all costs in connection with the ethics consultation.

#### 9 **VIII. RESTITUTION**

10 43. An order of restitution is not appropriate in this matter.

#### 11 **IX. COSTS AND EXPENSES**

12 44. In light of Respondent's willingness to resolve this matter by stipulation at an early  
13 stage of the proceedings, Respondent shall pay attorney fees and administrative costs of \$750 in  
14 accordance with ELC 13.9(i). The Association will seek a money judgment under ELC 13.9(l) if  
15 these costs are not paid within 30 days of approval of this stipulation.

#### 16 **X. VOLUNTARY AGREEMENT**

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

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

1 **XI. LIMITATIONS**

2 47. This Stipulation is a compromise agreement intended to resolve this matter in  
3 accordance with the purposes of lawyer discipline while avoiding further proceedings and the  
4 expenditure of additional resources by the Respondent and ODC. Both the Respondent and ODC  
5 acknowledge that the result after further proceedings in this matter might differ from the result  
6 agreed to herein.

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


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

16 50. Under ELC 3.1(b), all documents that form the record before the Hearing Officer for  
17 Hearing Officer’s review become public information on approval of the Stipulation by the  
18 Hearing Officer, unless disclosure is restricted by order or rule of law.

19 51. If this Stipulation is approved by the Hearing Officer, it will be followed by the  
20 disciplinary action agreed to in this Stipulation. All notices required in the Rules for Enforcement  
21 of Lawyer Conduct will be made. Respondent represents that, in addition to Washington,  
22 Respondent also is admitted to practice law in the following jurisdictions, whether current status  
23 is active, inactive, or suspended: Iowa, Texas, Idaho.

1 52. If this Stipulation is not approved by the Hearing Officer, this Stipulation will have no  
2 force or effect, and neither it nor the fact of its execution will be admissible as evidence in the  
3 pending disciplinary proceeding, in any subsequent disciplinary proceeding, or in any civil or  
4 criminal action.

5 WHEREFORE the undersigned being fully advised, adopt and agree to this Stipulation to  
6 Reprimand as set forth above.

7   
8 Ryan M. Best, Bar No. 33672  
9 Respondent


Dated: 3/14/2024



10   
11 Joseph W. Kuhlman, Bar No. 42884  
12 Counsel for Respondent

**03-15-2024**

Dated: \_\_\_\_\_

13   
14 Erica Temple, Bar No. 28458  
15 Managing Disciplinary Counsel

Dated: March 18, 2024