

Jun 25 2019

Disciplinary Board

Docket # 011

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BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON SUPREME COURT

In re

**ROY RAINEY,**  
Lawyer (Bar No. 9512).

Proceeding No. 19#00009

ODC File No(s). 17-00705; 18-00666

Resignation Form of Roy Rainey (ELC 9.3(b))

I, Roy Rainey, declare as follows:

1. I am over the age of eighteen years and am competent. I make the statements in this declaration from personal knowledge.

2. I was admitted to practice law in the State of Washington on October 30, 1979.

3. I was served with a Formal Complaint and Notice to Answer in this matter on March 12, 2019.

4. I have voluntarily decided to resign from the Washington State Bar Association (the Association) in Lieu of Discipline under Rule 9.3 of the Washington Supreme Court's Rules for Enforcement of Lawyer Conduct (ELC).

5. Attached hereto as Exhibit A is Disciplinary Counsel's statement of alleged

1 misconduct for purposes of ELC 9.3(b). I am aware of the alleged misconduct stated in  
2 Disciplinary Counsel's statement, but rather than defend against the allegations, I wish to  
3 permanently resign from membership in the Association.

4 6. I consent to entry of an order under ELC 13.9(e) assessing expenses of \$1,500 in  
5 this matter.

6 7. I agree to pay any additional costs or restitution that may be ordered by a Review  
7 Committee under ELC 9.3(g).

8 8. I understand that my resignation is permanent and that any future application by  
9 me for reinstatement as a member of the Association is currently barred. If the Washington  
10 Supreme Court changes this rule or an application is otherwise permitted in the future, it will be  
11 treated as an application by one who has been disbarred for ethical misconduct. If I file an  
12 application, I will not be entitled to a reconsideration or reexamination of the facts, complaints,  
13 allegations, or instances of alleged misconduct on which this resignation was based.

14 9. I agree to (a) notify all other states and jurisdictions in which I am admitted of this  
15 resignation in lieu of discipline; (b) seek to resign permanently from the practice of law in  
16 Washington; and (c) provide Disciplinary Counsel with copies of this notification and any  
17 response(s). I acknowledge that this resignation could be treated as a disbarment by all other  
18 jurisdictions.

19 10. I agree to (a) notify all other professional licensing agencies in any jurisdiction  
20 from which I have a professional license that is predicated on my admission to practice law of  
21 this resignation in lieu of discipline; (b) seek to resign permanently from any such license; and  
22 (c) provide disciplinary counsel with copies of any of these notifications and any responses.

23 11. I agree that when applying for any employment, I will disclose the resignation in

1 lieu of discipline in response to any question regarding disciplinary action or the status of my  
2 license to practice law.

3 12. I understand that my resignation becomes effective on Disciplinary Counsel's  
4 endorsement and filing of this document with the Clerk, and that under ELC 9.3(c) Disciplinary  
5 Counsel must do so promptly following receipt of this document.

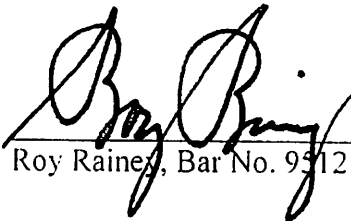
6 13. When my resignation becomes effective, I agree to be subject to all restrictions that  
7 apply to a disbarred lawyer.

8 14. Upon filing of my resignation, I agree to comply with the same duties as a  
9 disbarred lawyer under ELC 14.1 through ELC 14.4.

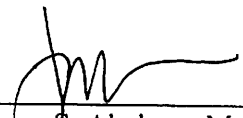
10 15. I understand that, after my resignation becomes effective, it is permanent. I will  
11 never be eligible to apply and will not be considered for admission or reinstatement to the  
12 practice of law nor will I be eligible for admission for any limited practice of law.

13 16. I certify under penalty of perjury under the laws of the State of Washington that  
14 the foregoing is true and correct.

15  
16 6-6-19 SILVERDALE, WA  
17 Date and Place

  
Roy Rainey, Bar No. 9512

18 ENDORSED BY:

19  
20   
21 Joanne S. Abelson, Managing Disciplinary Counsel  
Bar No. 24877

# **EXHIBIT A**

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BEFORE THE  
DISCIPLINARY BOARD  
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WASHINGTON SUPREME COURT

In re

**ROY RAINEY,**  
Lawyer (Bar No. 9512).

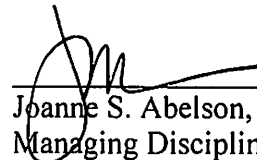
Proceeding No. 19#00009

ODC File Nos. 17-00705; 18-00666

STATEMENT OF ALLEGED  
MISCONDUCT UNDER ELC 9.3(b)(1)

The attached formal complaint, filed on February 25, 2019 in Proceeding No. 19#00009, constitutes Disciplinary Counsel's Statement of Alleged Misconduct under Rule 9.3(b)(1) of the Washington Supreme Court's Rules for Enforcement of Lawyer Conduct (ELC).

DATED this 21<sup>st</sup> day of May, 2019.

  
Joanne S. Abelson, Bar No. 24877  
Managing Disciplinary Counsel

Feb 25 2019

Disciplinary  
Board

Docket # 003

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BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON SUPREME COURT

In re

**ROY RAINEY,**  
Lawyer (Bar No. 9512).

Proceeding No. 19#00009  
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 Roy Rainey was admitted to the practice of law in the State of Washington on October 30, 1979.

**FACTS REGARDING COUNTS 1-5 (Wadkins grievance)**

**Facts regarding representation of Stacey Schafer Wadkins**

2. On October 1, 2014, Stacey Schafer Wadkins hired Respondent to probate her

1 mother's estate.

2 3. That day, Ms. Wadkins gave him a check for \$3,750, of which \$750 was for costs  
3 and \$3,000 was for legal fees.

4 4. There was no written fee agreement.

5 5. On October 2, 2014, Respondent deposited the check into his trust account.

6 6. On October 3, 2014, Respondent filed papers to initiate the probate and advanced  
7 \$250 in costs.

8 7. On October 3, 2014, Respondent removed \$3,250 from his trust account,  
9 representing reimbursement of the \$250 advanced costs and the full fee of \$3,000.

10 8. He placed those funds into his operating account.

11 9. Respondent did not provide notice to Ms. Wadkins that he had removed her funds  
12 from trust.

13 10. Respondent did little work on Ms. Wadkins's case after filing the initial papers.

14 11. Respondent never communicated with Ms. Wadkins after the initial meeting.

15 12. Ms. Wadkins phoned Respondent multiple times to obtain information about her  
16 case but he did not call her back.

17 13. In Fall 2016, Ms. Wadkins hired a different lawyer to complete the probate.

18 14. After hearing from Ms. Wadkins's new lawyer, Respondent refunded \$223.67,  
19 which represented the advance costs remaining in his trust account.

20 15. He later refunded a total of \$1,000 of the \$3,000 fee.

21 16. Ms. Wadkins was frustrated by Respondent's failure to communicate with her and  
22 attend to her legal matter.

23 17. Because the estate remained open for so long, Ms. Wadkins was required to pay an

1 extra \$2,000 in accountant fees for estate income tax returns for the years 2016 and 2017 that  
2 she would not have had to pay had the estate been closed promptly.

3 **Facts regarding failure to cooperate**

4 18. Ms. Wadkins filed a grievance against Respondent on or about May 4, 2017.

5 19. On May 8, 2017, disciplinary counsel asked Respondent to respond within 30 days.

6 20. He did not respond.

7 21. On June 13, 2017, disciplinary counsel notified Respondent under ELC 5.3(h) that  
8 his failure to respond within 10 days might result in his deposition and was grounds for  
9 discipline.

10 22. He did not respond.

11 23. On July 10, 2017, disciplinary counsel had Respondent served with a subpoena  
12 duces tecum for a deposition to occur on July 27, 2017.

13 24. On July 25, 2017, Respondent submitted a response to the grievance.

14 **COUNT 1**

15 25. By failing to pursue Ms. Wadkins's probate matter diligently, Respondent violated  
16 RPC 1.3 and/or RPC 3.2.

17 **COUNT 2**

18 26. By failing to respond to Ms. Wadkins's reasonable requests for information,  
19 Respondent violated RPC 1.4.

20 **COUNT 3**

21 27. By withdrawing Ms. Wadkins's fees from his trust account before they were earned  
22 and/or by withdrawing the fees from his trust account without giving Ms. Wadkins reasonable  
23 notice in writing, Respondent violated RPC 1.15A(c)(2) and/or 1.15A(h)(3).



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COUNT 4

28. By failing to refund unearned fees promptly, Respondent violated RPC 1.16(d).

COUNT 5

29. By failing to respond to Ms. Wadkins's grievance promptly, Respondent violated RPC 8.4(f) (through ELC 5.3(f)).

FACTS REGARDING COUNTS 6-9 (Gripenstedt grievance)

Facts regarding representation of Christine Gripenstedt

30. Christine Gripenstedt resides in Sweden. Her father, who lived on Bainbridge Island, died in 2010.

31. In 2010, Ms. Gripenstedt hired a lawyer to file a probate action.

32. Ms. Gripenstedt was the personal representative.

33. Ms. Gripenstedt's father owned a parcel of land on Bainbridge Island when he died (Bainbridge Island property).

34. A June 1999 will left the Bainbridge Island property to Ms. Gripenstedt, but a June 2008 codicil gave one-half of the Bainbridge Island property to her two cousins, John and Carl Erickson, who also lived on Bainbridge Island.

35. Ms. Gripenstedt contacted Respondent with questions about division of the Bainbridge Island property.

36. Respondent noticed that the codicil had not been executed properly and concluded that there was no need to divide the Bainbridge Island property.

37. Ms. Gripenstedt then hired Respondent to take over the probate proceeding.

38. Respondent entered his appearance in the probate matter in September 2010.

39. Ms. Gripenstedt paid Respondent approximately \$2,000 for representing her in the

1 probate matter, which he has earned.

2 40. Respondent has not sent Ms. Gripenstedt any additional billing statements for the  
3 probate matter.

4 41. As of the date of the Formal Complaint, the probate matter remains open because  
5 Ms. Gripenstedt has been unable to clear title to the Bainbridge Island property for reasons  
6 discussed below.

7 42. In December 2010, after Respondent notified Ms. Gripenstedt's cousins that she was  
8 not going to honor the codicil, they filed a complaint against her for specific performance.

9 43. Respondent represented Ms. Gripenstedt in that matter.

10 44. In May 2013, that lawsuit was dismissed without prejudice for want of prosecution.

11 45. Respondent did not send Ms. Gripenstedt any billing statements for his work in the  
12 litigation with her cousins.

13 46. After the litigation with her cousins ended, Ms. Gripenstedt attempted to list the  
14 Bainbridge Island property for sale with a real estate broker.

15 47. During that process, the broker determined that the title to the Bainbridge Island  
16 property was not cleared in her name or in the name of her father, so she could not list it for  
17 sale.

18 48. Ms. Gripenstedt hired Respondent for the purpose of clearing title.

19 49. In late 2013, Respondent determined that a quiet title action was necessary.

20 50. Respondent did not file the quiet title action until September 26, 2017.

21 51. Ms. Gripenstedt has contacted Respondent repeatedly seeking updates about what  
22 was happening with her legal matter.

23 52. Respondent has responded to Ms. Gripenstedt only sporadically and made promises

1 he did not keep.

2 53. Respondent told Ms. Gripenstedt he would file a motion for summary judgment to  
3 resolve the matter, but has not done so.

4 54. Ms. Gripenstedt has been alarmed and frustrated by the delay. She feels powerless  
5 because she lives abroad.

6 55. Ms. Gripenstedt has had to take out loans because she did not have the proceeds  
7 from the sale of the Bainbridge Island property to live on.

8 56. On April 17, 2018, Ms. Gripenstedt filed a grievance against Respondent.

9 57. After Respondent was deposed by disciplinary counsel with respect to Ms.  
10 Gripenstedt's grievance, Respondent communicated with Ms. Gripenstedt and promised to  
11 attend to her lawsuit without procrastination and to maintain better communication.

12 58. He has not done so.

13 59. Respondent told Ms. Gripenstedt he would file the motion for summary judgment by  
14 the end of August 2018.

15 60. Respondent did not do so.

16 61. On September 7, 2018, Respondent told Ms. Gripenstedt that he was almost done  
17 with the summary judgment motion.

18 62. After repeated inquiries from Ms. Gripenstedt, on November 14, 2018, Respondent  
19 emailed her that he would send her a detailed report by "this Friday" (i.e., November 16, 2018).

20 63. He did not do so.

21 64. As of the date of this Formal Complaint, Respondent has not filed the summary  
22 judgment motion in the quiet title action.

23 65. Respondent has never sent Ms. Gripenstedt a billing statement with respect to the

1 quiet title action.

2 **Facts regarding failure to cooperate**

3 66. On April 18, 2018, disciplinary counsel requested Respondent's response to Ms.  
4 Gripenstedt's grievance.

5 67. He did not respond.

6 68. On May 22, 2018, disciplinary counsel notified Respondent under ELC 5.3(h) that  
7 his failure to respond within 10 days might result in his deposition and was grounds for  
8 discipline.

9 69. He did not respond.

10 70. On June 18, 2018, disciplinary counsel issued a subpoena duces tecum for a  
11 deposition on July 10, 2018.

12 71. At that time, ODC did not have an address at which to effect personal service on  
13 Respondent.

14 72. On June 21, 2018, disciplinary counsel sent Respondent an email message asking  
15 him to provide a physical address for personal service.

16 73. He did not respond.

17 74. On June 29, 2018, disciplinary counsel left Respondent a voice mail message  
18 requesting him to call back.

19 75. He did not respond.

20 76. Also on June 29, 2018, disciplinary counsel sent by certified mail a copy of the  
21 subpoena duces tecum and cover letter to Respondent at two different Post Office Box  
22 addresses.

23 77. On July 2, 2018, Respondent sent disciplinary counsel an email stating he would

1 follow up later that day.

2 78. He did not follow up.

3 79. On July 3, 2018, disciplinary counsel left Respondent a voice mail message  
4 requesting he call back.

5 80. He did not call back.

6 81. Disciplinary counsel cancelled the deposition set for July 10, 2018 because ODC  
7 was not able to serve Respondent with the subpoena duces tecum.

8 82. On July 10, 2018, disciplinary counsel issued a subpoena duces tecum for a  
9 deposition on July 31, 2018.

10 83. On July 11, 2018, Respondent was personally served at Poulsbo Municipal Court  
11 with the subpoena duces tecum for the July 31, 2018 deposition.

12 84. Respondent submitted a written response to Ms. Gripenstedt's grievance on July 30,  
13 2018 and attended the July 31, 2018 deposition.

14 85. Respondent did not provide all of the documents described in the subpoena duces  
15 tecum, including his emails with Ms. Gripenstedt.

16 86. At the deposition, Respondent promised to provide his emails with Ms. Gripenstedt  
17 and some additional documents identified at the deposition.

18 87. He did not provide the documents.

19 88. Disciplinary counsel wrote Respondent on August 9, 2018 again requesting that he  
20 provide the emails and the other documents identified at the deposition.

21 89. As of the date of this Formal Complaint he has not done so.

22 **COUNT 6**

23 90. By failing to file the quiet title action for approximately four years, and/or by failing

1 to diligently pursue the action once filed. Respondent violated RPC 1.3 and/or RPC 3.2.

2 **COUNT 7**

3 91. By failing to respond promptly to Ms. Gripenstedt's reasonable requests for  
4 information, Respondent violated RPC 1.4.

5 **COUNT 8**

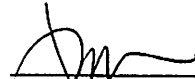
6 92. By failing to provide information to Ms. Gripenstedt about the time spent on her  
7 cases and the fees earned, Respondent violated RPC 1.4 and/or RPC 1.5(b).

8 **COUNT 9**

9 93. By failing to respond promptly to Ms. Gripenstedt's grievance, and/or by failing to  
10 provide additional information requested by disciplinary counsel, Respondent violated RPC  
11 8.4(f) (through ELC 5.3(f) and/or ELC 5.5(d)).

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

15 Dated this 25<sup>th</sup> day of February, 2019.

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19 Joanne S. Abelson, Bar No. 24877  
20 Managing Disciplinary Counsel  
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