

FILED

JUN 23 2015

DISCIPLINARY
BOARD

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

TODD M. GRUENHAGEN,
Lawyer (Bar No. 12340).

Proceeding No. 14#00073

STIPULATION TO ADMONITION

Under Rule 9.1 of the Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to admonition is entered into by the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through disciplinary counsel M Craig Bray and Respondent lawyer Todd M. Gruenhagen.

Respondent understands that he is entitled under the ELC to a hearing, to present exhibits and witnesses on his behalf, and to have a hearing officer determine the facts, misconduct and sanction in this case. Respondent further understands that he 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 him. Respondent chooses to resolve this proceeding now by entering into the following stipulation to facts, misconduct and sanction to

Stipulation to Discipline

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OFFICE OF DISCIPLINARY COUNSEL
OF THE WASHINGTON STATE BAR ASSOCIATION
1325 4th Avenue, Suite 600
Seattle, WA 98101-2539
(206) 727-8207

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1 avoid the risk, time, and expense attendant to further proceedings.

2 **I. ADMISSION TO PRACTICE**

3 1. Respondent was admitted to practice law in the State of Washington on May 17,
4 1982.

5 **II. STIPULATED FACTS**

6 2. Between August and November 2012, Respondent failed to provide a response to a
7 grievance filed against him.

8 3. The Office of Disciplinary Counsel (ODC) subpoenaed Respondent for a non-
9 cooperation deposition under former Rule 5.3(f)(1) of the Rules for Enforcement of Lawyer
10 Conduct (ELC).

11 4. The deposition was held on November 19, 2013.

12 5. On May 10, 2013, a Review Committee of the Disciplinary Board entered an order
13 under ELC 5.3(f)(2)(B) against Respondent assessing \$938.38 in costs and expenses that ODC
14 had incurred related to the November 19, 2012 deposition.

15 6. On May 15, 2013, ODC forwarded a copy of the order to Respondent and notified
16 him that, under the ELC, payment was due on or before June 9, 2013.

17 7. Respondent did not seek review of the Review Committee's order and did not pay or
18 enter into a payment plan with ODC.

19 8. By letter dated March 7, 2014, ODC notified Respondent that if he did not take steps
20 within thirty days to pay the costs and expenses ordered by the Review Committee, a new
21 grievance would be opened against him.

22 9. Respondent did not respond.

23 10. On June 19, 2014, ODC opened a grievance against Respondent (ODC File No. 14-

1 01091) based on his failure to pay the costs and expenses ordered by the Review Committee.

2 11. On June 27, 2014, ODC, acting under ELC 5.3(b), sent Respondent a letter
3 requesting a response to the grievance within 30 days.

4 12. Respondent did not respond.

5 13. On September 4, 2014, ODC sent Respondent a letter indicating it had completed its
6 investigation of the matter and was reporting the results of the investigation to a Review
7 Committee of the Disciplinary Board with a recommendation that the Review Committee order
8 the matter to hearing.

9 14. A Review Committee ordered the matter to hearing on October 22, 2014.

10 15. As of the date this Formal Complaint was filed, Respondent had not made any
11 payment towards the costs and expenses ordered by the Review Committee on May 10, 2013.

12 16. Respondent answered the Formal Complaint on February 11 2015. With his answer,
13 Respondent paid the principal amount of \$938.38.

14 17. However, the principal had accrued interest of \$215.83 under ELC 13.9(i)(2), which
15 amount remained owing.

16 III. STIPULATION TO MISCONDUCT

17 18. By failing to pay the costs and expenses he was ordered to pay by the Review
18 Committee on May 10, 2013, Respondent violated RPC 8.4(l) (by violating ELC 1.5 and/or
19 ELC 13.9(i)).

20 IV. PRIOR DISCIPLINE

21 19. Respondent does not have any prior public discipline.

22 V. APPLICATION OF ABA STANDARDS

23 20. The following American Bar Association Standards for Imposing Lawyer Sanctions

1 (1991 ed. & Feb. 1992 Supp.) apply to this case:

2 **7.0 Violations of Duties Owed as a Professional**

3 7.1 Disbarment is generally appropriate when a lawyer knowingly engages in
4 conduct that is a violation of a duty owed as a professional with the intent
5 to obtain a benefit for the lawyer or another, and causes serious or
6 potentially serious injury to a client, the public, or the legal system.

7 7.2 Suspension is generally appropriate when a lawyer knowingly engages in
8 conduct that is a violation of a duty owed as a professional and causes
9 injury or potential injury to a client, the public, or the legal system.

10 7.3 Reprimand is generally appropriate when a lawyer negligently engages in
11 conduct that is a violation of a duty owed as a professional and causes
12 injury or potential injury to a client, the public, or the legal system.

13 7.4 Admonition is generally appropriate when a lawyer engages in an
14 isolated instance of negligence that is a violation of a duty owed as a
15 professional, and causes little or no actual or potential injury to a client,
16 the public, or the legal system.

17 21. At all relevant times, Respondent was representing a defendant in a criminal case in
18 which the State was seeking the death penalty and the defense was pursuing an insanity defense.

19 State v. Christopher Monfort, King County Superior Court No. 09-1-07187-6. Respondent was
20 actively involved in investigation and preparation for trial. Monfort pre-trial activities included
21 an active motion practice and at least one appeal to the Washington Supreme Court. Trial in the
22 Monfort matter began in December 2014 and continued until closing arguments concluded on
23 June 1, 2015.

24 22. While Respondent knew he was required to pay the costs and expenses ordered by
the Review Committee, the extraordinary demands of an ongoing death penalty defense
contributed to his neglecting his duty to the Association to pay the costs and accrued interest.
Therefore, the parties stipulate that Respondent acted negligently.

23 23. By failing to pay the costs and expenses ordered, Respondent injured the Association
and legal system, which were required to absorb the costs of securing a response from
Respondent to the prior grievance and had to expend further limited resources in seeking

1 compliance with the cost order.

2 24. The presumptive sanction is reprimand.

3 25. The following aggravating factor applies under ABA Standard 9.22:

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

5 26. The following mitigating factors apply under ABA Standard 9.32:

- 6 (a) absence of a prior disciplinary record;
7 (b) absence of a dishonest or selfish motive.

8 27. It is an additional mitigating factor that Respondent was subject to significant burden
9 and stress due to the demands of mounting a death penalty defense. See paragraph 21.

10 28. It is also noted that Respondent paid the principal amount owing at the time he filed
11 his answer to the Formal Complaint and neglected to appreciate that the principal had accrued
12 interest.

13 29. Respondent paid the interest still owing prior to the execution of this stipulation.

14 30. On balance, the mitigating factors appear to outweigh the aggravating factor. Based
15 on the factors set forth above, the presumptive sanction should be mitigated to an admonition.

16 VI. STIPULATED DISCIPLINE

17 31. The parties stipulate that Respondent shall receive an admonition for his conduct.

18 VII. RESTITUTION

19 32. As Respondent has paid the costs and expenses and accrued interest, there is no
20 restitution.

21 VIII. COSTS AND EXPENSES

22 33. In light of Respondent's willingness to resolve this matter by stipulation and
23 payment of the costs, expenses and interest owing at a relatively early stage of the proceedings,
24 ODC waives assessment of additional attorney fees and administrative costs under ELC 13.9.

1 **IX. VOLUNTARY AGREEMENT**

2 34. Respondent states that prior to entering into this Stipulation he had an opportunity to
3 consult independent legal counsel regarding this Stipulation, that he is entering into this
4 Stipulation voluntarily, and that no promises or threats have been made by ODC, the
5 Association, nor by any representative thereof, to induce him to enter into this Stipulation
6 except as provided herein.

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

9 **X. LIMITATIONS**

10 36. This Stipulation is a compromise agreement intended to resolve this matter in
11 accordance with the purposes of lawyer discipline while avoiding further proceedings and the
12 expenditure of additional resources by the Respondent and ODC. Both the Respondent lawyer
13 and ODC acknowledge that the result after further proceedings in this matter might differ from
14 the result agreed to herein.

15 37. This Stipulation is not binding upon ODC or the respondent as a statement of all
16 existing facts relating to the professional conduct of the respondent lawyer, and any additional
17 existing facts may be proven in any subsequent disciplinary proceedings.

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

1 Stipulation.

2 39. Under ELC 3.1(b), all documents that form the record before the Hearing Officer for
3 his or her review become public information on approval of the Stipulation by the Hearing
4 Officer, unless disclosure is restricted by order or rule of law.

5 40. If this Stipulation is approved by the Hearing Officer, it will be followed by the
6 disciplinary action agreed to in this Stipulation. All notices required in the Rules for
7 Enforcement of Lawyer Conduct will be made.

8 41. If this Stipulation is not approved by the Hearing Officer, this Stipulation will have
9 no force or effect, and neither it nor the fact of its execution will be admissible as evidence in
10 the pending disciplinary proceeding, in any subsequent disciplinary proceeding, or in any civil
11 or criminal action.


12 42. A copy of the proposed Admonition is attached and hereby incorporated by
13 reference. Respondent agrees to the language of the Admonition.

14 WHEREFORE the undersigned being fully advised, adopt and agree to this Stipulation
15 to Discipline as set forth above.

16 
17 _____
Todd M. Gruenhagen, Bar No. 12340

18 Respondent

Dated: June 9, 2015

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20 _____
M Craig Bray, Bar No. 20821

21 Disciplinary Counsel

Dated: 6/11/2015

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BEFORE THE
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OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

TODD M. GRUENHAGEN,
Lawyer (Bar No. 12340).

Proceeding No. 14#00073
ADMONITION

Pursuant to Rule 13.5 of the Rules for Enforcement of Lawyer Conduct, the following Admonition was issued by the Disciplinary Board Chair.

I. ADMISSION TO PRACTICE

At all times material to the complaint, you were licensed to practice in the state of Washington.

II. FACTS

1. Respondent was admitted to practice law in the State of Washington on May 17, 1982.
2. Between August and November 2012, Respondent failed to provide a response to a grievance filed against him.
3. The Office of Disciplinary Counsel (ODC) subpoenaed Respondent for a non-cooperation deposition under former Rule 5.3(f)(1) of the Rules for Enforcement of Lawyer

1 Conduct (ELC).

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4 under ELC 5.3(f)(2)(B) against Respondent assessing \$938.38 in costs and expenses that ODC
5 had incurred related to the November 19, 2012 deposition.

6 6. On May 15, 2013, ODC forwarded a copy of the order to Respondent and notified
7 him that, under the ELC, payment was due on or before June 9, 2013.

8 7. Respondent did not seek review of the Review Committee's order and did not pay
9 or enter into a payment plan with ODC.

10 8. Respondent did not pay until after a Review Committee ordered the matter to
11 hearing and a Formal Complaint was filed against him on December 30 2014.

12 9. Respondent paid the principal amount owing at the time he answered the Formal
13 Complaint in February 2015 and later paid the accrued interest.

14 **III. MISCONDUCT**

15 23. By failing to pay the costs and expenses he was ordered to pay by the Review
16 Committee on May 10, 2013, Respondent violated RPC 8.4(l) (by violating ELC 1.5 and/or
17 ELC 13.9(i)).

18 **IV. ADMONITION**

19 YOU ARE HEREBY ADMONISHED FOR THIS MISCONDUCT. This admonition is
20 not a disciplinary sanction, but is a disciplinary action, and shall be admissible in evidence in
21 subsequent discipline or disability proceedings involving you.

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Dated this ____ day of _____, 2015.

Jennifer A. Dremousis, Chairperson
Disciplinary Board