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DISCIPLINARY
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BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re
GEORGE THEODORE HUNTER,
Lawyer (Bar No. 14388).

Proceeding No. 15#00025
STIPULATION TO REPRIMAND

Under Rule 9.1 of the 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 Debra Slater and Respondent lawyer George Theodore Hunter.

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

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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 November 1,
5 1984.

6 **II. STIPULATED FACTS**

7 2. In or around April 2006, Respondent filed suit on behalf of Tresa R. Mariotto in
8 Whatcom County Superior Court against Mariotto's former employer, Olympic Health
9 Management Systems, Inc. (Olympic).

10 3. In March 2007, the court granted Olympic's motions for summary judgment of
11 dismissal on two of Mariotto's three claims.

12 4. Respondent did not inform Mariotto about the March 2007 dismissals when they
13 occurred.

14 5. The court did not grant summary judgment on Mariotto's discrimination claim.

15 6. Trial was set on the remaining claim for December 18 and 19, 2007, but was stricken
16 due to conflicts with the Court's schedule. Respondent did not reset the matter for trial.

17 7. On November 6, 2008, Olympic filed a motion to dismiss under CR 41(b), based on
18 the fact that Respondent had not re-noted the matter for trial.

19 8. On November 6, 2008, Respondent was served with a copy of Olympic's motion to
20 dismiss noted for November 21, 2008.

21 9. On November 17, 2008, Mariotto wrote to Respondent inquiring about the status of
22 her case. Respondent did not respond to Mariotto's request for information.

1 10. On November 25, 2008, Olympic filed a re-note of the motion to dismiss for the
2 December 5, 2008 motion docket.

3 11. On November 25, 2008, Respondent was served with a copy of Olympic's re-note
4 for the motion docket. Respondent took no action to oppose Olympic's motion to dismiss, nor
5 did he advise Mariotto of Olympic's motion to dismiss.

6 12. On December 5, 2008, the court dismissed Mariotto's lawsuit in its entirety.
7 Respondent did not advise Mariotto that the court had dismissed her case in its entirety within
8 the time frame during which Mariotto could have pursued an appeal.

9 III. STIPULATION TO MISCONDUCT

10 13. By failing to keep Mariotto reasonably informed about the status of her case, by
11 failing to comply with reasonable requests for information, and by failing to explain a matter to
12 the extent reasonably necessary to permit her to make informed decisions, Respondent violated
13 RPC 1.4.

14 14. By failing to act with reasonable diligence and promptness in representing Mariotto,
15 Respondent violated RPC 1.3.

16 IV. PRIOR DISCIPLINE

17 15. Respondent received an admonition on August 5, 2011.

18 V. APPLICATION OF ABA STANDARDS

19 16. American Bar Association Standards for Imposing Lawyer Sanctions (1991 ed. &
20 Feb. 1992 Supp.) 4.4, applies to violations of RPC 1.3 and RPC 1.4.

21 ABA Standards 4.4 *Lack of Diligence*

22 4.41 Disbarment is generally appropriate when:

- 23 (a) a lawyer abandons the practice and causes serious or potentially serious
injury to a client; or

- 1 (b) a lawyer knowingly fails to perform services for a client and causes
2 serious or potentially serious injury to a client; or
3 (c) a lawyer engages in a pattern of neglect with respect to client matters and
4 causes serious or potentially serious injury to a client.
5 4.42 Suspension is generally appropriate when:
6 (a) a lawyer knowingly fails to perform services for a client and causes
7 injury or potential injury to a client, or
8 (b) a lawyer engages in a pattern of neglect and causes injury or potential
9 injury to a client.
10 **4.43 Reprimand is generally appropriate when a lawyer is negligent and
11 does not act with reasonable diligence in representing a client, and
12 causes injury or potential injury to a client.**
13 4.44 Admonition is generally appropriate when a lawyer is negligent and does
14 not act with reasonable diligence in representing a client, and causes little
15 or no actual or potential injury to a client.

16 17. It appears Respondent acted negligently when he failed to note the case for trial and
17 failed to respond to Mariotto's November 17, 2008 request for an update. It appears Respondent
18 acted negligently when he failed to take note of the motion to dismiss, failed to respond to the
19 motion to dismiss, and generally failed to keep Mariotto apprised of the status of her case.

20 18. There was injury to Mariotto as her case was dismissed without the opportunity of a
21 trial on its merits and she was not informed of that fact in a time frame in which she could have
22 done anything about it.

23 19. The presumptive sanction thus appears to be reprimand.

24 20. The following aggravating factors apply under ABA Standard 9.22:

- 25 (a) prior disciplinary offenses (Respondent received an admonition in 2011
26 for failure to provide a contingent fee agreement in writing, failure to
27 diligently pursue a client's matter, and failure to communicate);
28 (d) multiple offenses;
29 (i) substantial experience in the practice of law- Respondent was admitted to
30 practice in Washington in 1977.

31 21. The following mitigating factors apply under ABA Standard 9.32:

- 32 (a) absence of a dishonest or selfish motive;

- 1 (c) personal or emotional problems--Respondent experienced a severe and
2 extended illness that impeded his ability to diligently handle Mariotto's
3 case;
4 (l) remorse.

5 22. It is an additional mitigating factor that Respondent has agreed to resolve this matter
6 at an early stage of the proceedings.

7 23. On balance the aggravating and mitigating factors do not require a departure from
8 the presumptive sanction.

9 VI. STIPULATED DISCIPLINE

10 24. The parties stipulate that Respondent shall receive a reprimand for his conduct.

11 25. Respondent will be subject to probation for a period of two years beginning when
12 this stipulation receives final approval and shall comply with the specific probation terms set
13 forth below:

14 26. The conditions of probation are set forth below. Respondent's compliance with
15 these conditions shall be monitored by the Probation Administrator of the Office of Disciplinary
16 Counsel ("Probation Administrator"). Failure to comply with a condition of probation listed
17 herein may be grounds for further disciplinary action under ELC 13.8(b).

18 Practice Monitor

- 19 a) During the period of probation, Respondent's practice shall be supervised by a
20 practice monitor. The practice monitor must be a WSBA member with no record of
21 public discipline and who is not the subject of a pending public disciplinary
22 proceeding.
23 b) The practice monitor shall consult with and provide guidance to Respondent
24 regarding case management, office management, and avoiding violations of the
Rules of Professional Conduct. While appointed as practice monitor during the
probation period, the practice monitor does not represent the Respondent.
c) No later than 15 days after probation begins, Respondent may provide to the
Probation Administrator, in writing, the name and contact information of a proposed
practice monitor. The Probation Administrator may or may not approve the

1 proposed practice monitor. If Respondent fails to propose a practice monitor within
2 15 days, or if the Probation Administrator does not approve the proposed practice
3 monitor, the Probation Administrator will propose to Respondent a practice
4 monitor. If Respondent objects to the Probation Administrator's proposal, ODC
5 will submit a request that a practice monitor be appointed by the Chair of the
6 Disciplinary Board. See ELC 13.8(a)(2). Respondent shall cooperate with the
7 practice monitor agreed to by ODC and Respondent or appointed by the Chair of the
8 Disciplinary Board.

- 9 d) During the period of probation, Respondent shall meet with the practice monitor at
10 least once per month. At each meeting, the practice monitor will discuss with
11 Respondent each of Respondent's client matters, the status of each client matter,
12 Respondent's communication with each client, upcoming deadlines, and
13 Respondent's intended course of action]. Meetings may be in person or by
14 telephone at the practice monitor's discretion.
- 15 e) The practice monitor will provide the Probation Administrator with quarterly
16 reports regarding Respondent's performance on probation. Each report must include
17 the date of each meeting with Respondent, a brief synopsis of the discussion topics,
18 and a brief description of any concerns the practice monitor has regarding the
19 Respondent's compliance with the RPC. The report must be signed by the practice
20 monitor. Each report is due within 30 days of the completion of the quarter.
- 21 f) If the practice monitor believes that Respondent is not complying with any of his
22 ethical duties under the RPC or if Respondent fails to attend a monthly meeting, the
23 practice monitor shall promptly report that to the Probation Administrator.
- 24 g) Respondent shall be responsible for paying any and all fees, costs and/or expenses
charged by the practice monitor for supervision.

25 VII. RESTITUTION

26 27. Restitution is not indicated in this case as no fees were paid to Respondent by
27 Mariotto.

28 VIII. COSTS AND EXPENSES

29 28. In light of Respondent's willingness to resolve this matter by stipulation at an early
30 stage of the proceedings, Respondent shall pay attorney fees and administrative costs of \$750.00
31 and expenses of \$552.42, in accordance with ELC 13.9(i). The Association will seek a money
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1 judgment under ELC 13.9(1) if these costs are not paid within 30 days of approval of this
2 stipulation.

3 IX. VOLUNTARY AGREEMENT

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

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

11 X. LIMITATIONS

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

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

20 33. This Stipulation results from the consideration of various factors by both parties,
21 including the benefits to both by promptly resolving this matter without the time and expense of
22 hearings, Disciplinary Board appeals, and Supreme Court appeals or petitions for review. As
23 such, approval of this Stipulation will not constitute precedent in determining the appropriate

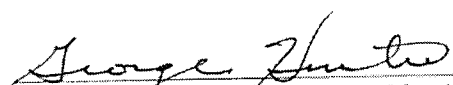
1 sanction to be imposed in other cases; but, if approved, this Stipulation will be admissible in
2 subsequent proceedings against Respondent to the same extent as any other approved
3 Stipulation.

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


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

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

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

16 
17 George Theodore Hunter, Bar No. 14388
18 Respondent

Dated: 8/11/16

19 
20 Debra Slater, Bar No. 18346
21 Disciplinary Counsel

Dated: 8/11/16