

FILED

Jul 10 2019

Disciplinary
Board

Docket # 016

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON SUPREME COURT

In re

GARY EVAN RANDALL,
Lawyer (Bar No. 15020).

Proceeding No. 19#00012

AMENDED FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND HEARING
OFFICER'S RECOMMENDATION

The undersigned Hearing Officer held a default hearing by written submission under Rule 10.6(b)(3) of the Washington Supreme Court's Rules for Enforcement of Lawyer Conduct (ELC).

**FINDINGS OF FACTS AND CONCLUSIONS OF LAW
REGARDING CHARGED VIOLATIONS**

1. The Formal Complaint (Bar File (BF) No. 5) charged Gary Evan Randall with misconduct as set forth therein. A copy of the Formal Complaint is attached to this decision.
2. On May 28, 2019, an Order of Default was entered in this matter.
3. Under ELC 10.6(a)(4), the Hearing Officer finds that each of the facts set forth in the Formal Complaint is admitted and established.
4. Under ELC 10.6(a)(4), the Hearing Officer concludes that each of the violations

1 charged in Formal Complaint is admitted and established as follows:

2 **COUNT 1**

3 By failing to act with reasonable diligence and promptness in representing Jenson,
4 Respondent violated RPC 1.3.

5 **COUNT 2**

6 By failing to respond to Jenson's reasonable requests for information and/or keep him
7 reasonably informed about the status of his matter, Respondent violated RPC 1.4(a).

8 **COUNT 3**

9 By failing to take steps reasonably practicable to protect Jenson's interest and/or return
10 his original documents, Respondent violated RPC 1.16(d).

11 **COUNT 4**

12 By failing to act with reasonable diligence and promptness in representing Nancy,
13 Respondent violated RPC 1.3.

14 **COUNT 5**

15 By failing to promptly comply with Nancy's reasonable requests for information and/or
16 keep her reasonably informed about the status of her legal matter, Respondent violated RPC
17 1.4(a).

18 **COUNT 6**

19 By failing to withdraw from representing Nancy in the probate matter when requested to
20 do so, Respondent violated RPC 1.16(a)(3) and RPC 1.16(d).

21 **COUNT 7**

22 By failing to respond to Disciplinary Counsel's requests for information relevant to
23 Jenson's grievance and/or to appear for deposition and/or to produce documents after being
24 served with a subpoena duces tecum, Respondent violated ELC 1.5, ELC 5.3(f), ELC 5.3(g) and

1 ELC 5.5(d), thereby violating RPC 8.1(b) and RPC 8.4(l).

2 **COUNT 8**

3 By failing to respond to Disciplinary Counsel's requests for information relevant to Ms.
4 Nelson's grievance, and/or to appear for deposition and/or to produce documents after being
5 served with a subpoena duces tecum, Respondent violated ELC 1.5, ELC 5.3(f), ELC 5.3(g) and
6 ELC 5.5(d), thereby violating RPC 8.1(b) and RPC 8.4(l).

7 **COUNT 9**

8 By failing to respond to Disciplinary Counsel's requests for information relevant to
9 ODC's grievance and/or to appear for deposition and/or to produce documents after being
10 served with a subpoena duces tecum, Respondent violated ELC 1.5, ELC 5.3(f), ELC 5.3(g),
11 and ELC 5.5(d), thereby violating RPC 8.1(b) and RPC 8.4(l).

12 **COUNT 10**

13 By failing to notify Mr. Selner of his suspension, Respondent violated RPC 1.4 and ELC
14 14.1(c), thereby violating RPC 8.4(l).

15 **COUNT 11**

16 By continuing to practice law while suspended and/or by failing to withdraw from Mr.
17 Selner's case, Respondent violated RPC 1.16(a)(1), RPC 5.5(a), RPC 5.8(a), RPC 8.4(b) (by
18 violating RCW 2.48.180 (unlawful practice of law a crime)), RPC 8.4(d), RPC 8.4(j), and ELC
19 14.2(a), thereby violating RPC 8.4(l).

20 **COUNT 12**

21 By failing to keep his client reasonably informed about the status of his matter, to
22 promptly comply with his reasonable requests for information, and/or to explain a matter to the
23 extent reasonably necessary to permit the client to make informed decisions regarding the
24 representation, Respondent violated RPC 1.4.

1 **COUNT 13**

2 By failing to inform his client of his suspension from practice and/or to consult with his
3 client about any relevant limitation on his conduct when Respondent knew that the client
4 expected assistance not permitted by the RPC or other law, Respondent violated RPC 1.4 and
5 ELC 14.1(c), thereby violating RPC 8.4(l).

6 **COUNT 14**

7 By failing to discontinue the practice of law while suspended and/or by failing to
8 withdraw from Gary's case, Respondent violated RPC 1.16(a)(1), RPC 5.5(a), RPC 5.8(a), RPC
9 8.4(b) (by violating RCW 2.48.180 (unlawful practice of law a crime)), RPC 8.4(d), RPC 8.4(j),
10 and ELC 14.2(a), thereby violating RPC 8.4(l).

11 **COUNT 15**

12 By failing to respond to Disciplinary Counsel's requests for information relevant to
13 Gary's grievance and/or to appear for deposition and/or to produce documents after being
14 served with a subpoena duces tecum, Respondent violated ELC 1.5, ELC 5.3(f), ELC 5.3(g),
15 and ELC 5.5(d), thereby violating RPC 8.4(l).

16 **FINDINGS OF FACTS REGARDING PRIOR DISCIPLINE**

17 5. On December 20, 2010, the Supreme Court entered an Order Approving Stipulation
18 to Suspension suspending Respondent from the practice of law for six months.

19 6. Respondent's 2010 suspension was based on violations of RPC 1.3, RPC 1.4, RPC
20 1.16(a)(1), RPC 3.2, RPC 5.5(a), RPC 5.5(e), RPC 5.8(a), and RPC 8.4(l).

21 7. Respondent knowingly engaged in the same or similar misconduct in Counts 1, 2, 4,
22 and 7-15 that he was suspended for in 2010.

23 8. Respondent's conduct as charged in Counts 1, 2, 4, and 7-15 caused injury or
24 potential injury to a client, the public, the legal system, and the profession.

1 **7.0 Violations of Duties Owed as a Professional**

2 Absent aggravating or mitigating circumstances, upon application of the factors
3 set out in Standard 3.0, the following sanctions are generally appropriate in cases
4 involving false or misleading communication about the lawyer or the lawyer’s services,
5 improper communication of fields of practice, improper solicitation of professional
6 employment from a prospective client, unreasonable or improper fees, unauthorized
7 practice of law, improper withdrawal from representation, or failure to report
8 professional misconduct.

9 7.1 Disbarment is generally appropriate when a lawyer knowingly engages in
10 conduct that is a violation of a duty owed as a professional with the intent to obtain a
11 benefit for the lawyer or another, and causes serious or potentially serious injury to a
12 client, the public, or the legal system.

13 7.2 Suspension is generally appropriate when a lawyer knowingly engages in
14 conduct that is a violation of a duty owed as a professional and causes injury or potential
15 injury to a client, the public, or the legal system.

16 7.3 Reprimand is generally appropriate when a lawyer negligently engages in
17 conduct that is a violation of a duty owed as a professional and causes injury or potential
18 injury to a client, the public, or the legal system.

19 7.4 Admonition is generally appropriate when a lawyer engages in an
20 isolated instance of negligence that is a violation of a duty owed as a professional, and
21 causes little or no actual or potential injury to a client, the public, or the legal system.

22 **8.0 Prior Discipline Orders**

23 Absent aggravating or mitigating circumstances, upon application of the factors
24 set out in Standard 3.0, the following sanctions are generally appropriate in cases
 involving prior discipline.

 8.1 Disbarment is generally appropriate when a lawyer:

 (a) intentionally or knowingly violates the terms of a prior disciplinary order
 and such violation causes injury or potential injury to a client, the public, the legal
 system, or the profession; or

 (b) has been suspended for the same or similar misconduct, and intentionally
 or knowingly engages in further similar acts of misconduct that cause injury or potential
 injury to a client, the public, the legal system, or the profession.

 8.2 Suspension is generally appropriate when a lawyer has been reprimanded
 for the same or similar misconduct and engages in further similar acts of misconduct that
 cause injury or potential injury to a client, the public, the legal system, or the profession.

 8.3 Reprimand is generally appropriate when a lawyer:

 (a) negligently violates the terms of a prior disciplinary order and such
 violation causes injury or potential injury to a client, the public, the legal system, or the
 profession; or

 (b) has received an admonition for the same or similar misconduct and
 engages in further similar acts of misconduct that cause injury or potential injury to a
 client, the public, the legal system, or the profession.

 8.4 An admonition is generally not an appropriate sanction when a lawyer
 violates the terms of a prior disciplinary order or when a lawyer has engaged in the same
 or similar misconduct in the past.

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Counts 1 and 4: Failure to Provide Diligent Representation

10. Respondent acted knowingly in failing to diligently represent Jenson and Nancy.

11. Respondent's conduct caused actual harm to Jenson, who had to hire other counsel to do the work that Respondent failed to.

12. Respondent's conduct caused actual harm to Nancy who was unable to effectuate her desired estate plan before she died.

13. The presumptive sanction for Counts 1 and 4 under ABA Standard 4.42(a) is suspension.

Counts 2, 5, and 12: Failure to Communicate with Clients

14. Respondent acted knowingly in failing to keep Jensen reasonably informed about the status of his matter.

15. Respondent's conduct caused harm or potential harm to Jenson.

16. The presumptive sanction for Count 2 is suspension under ABA Standard 4.42(a).

17. Respondent acted at least negligently in failing to communicate with Nancy.

18. Respondent's conduct caused actual harm to Nancy.

19. The presumptive sanction for Count 5 under ABA Standard 4.43 is reprimand.

20. Respondent acted knowingly in failing to communicate with Gary about his legal matter.

21. Respondent's conduct caused actual harm to Gary who was deprived of knowledge to which he was entitled.

22. The presumptive sanction for Count 12 under ABA Standard 4.42(a) is suspension.

Counts 3 and 6: Failure to Withdraw and Return Client Property

23. Responded acted knowingly in failing to return Jenson's documents.

1 24. Jenson was injured because he was deprived of his records to which he was entitled.

2 25. The presumptive sanction for Count 3 under ABA Standard 7.2 is suspension.

3 26. Respondent acted at least negligently in failing to withdraw from Nancy's probate
4 matter when Jenson's successor counsel requested that he withdraw.

5 27. Respondent's conduct caused injury or potential injury in that additional expenses
6 were incurred in the administration of Nancy's estate due to Respondent's failure to withdraw
7 from the probate matter.

8 28. The presumptive sanction for Count 6 under ABA Standard 7.3 is reprimand.

9 **Counts 7, 8, 9, and 15: Failure to Cooperate in Disciplinary Investigation**

10 29. Respondent acted knowingly in failing to respond to disciplinary counsel's requests
11 for responses in the Jenson, Leslie, ODC, and Gary grievances.

12 30. Respondent acted knowingly in failing to appear for depositions in the Jenson, Leslie,
13 and ODC matters.

14 31. Respondent's failure to cooperate with the grievance investigations caused actual
15 harm to the public and legal system by (1) obstructing the investigation of the grievances, and (2)
16 by causing ODC to expend limited resources in attempting to obtain Respondent's cooperation.

17 32. The presumptive sanction for Counts 7, 8, 9, and 15 under ABA Standard 7.2 is
18 suspension.

19 **Counts 10 and 13: Failure to Notify Clients of His Suspension**

20 33. Respondent acted knowingly when he failed to notify Keith of his suspension and
21 withdraw from his case.

22 34. Respondent's conduct caused actual harm to Keith who was unaware that he was
23 effectively unrepresented and needed to find substitute counsel.

1 35. The presumptive sanction for Count 10 under ABA Standard 4.62 is suspension.

2 36. Respondent acted knowingly, and with intent to benefit himself, when he failed to
3 notify Gary of his suspension.

4 37. Respondent's conduct caused serious harm to Gary who was unaware for months that
5 he was effectively unrepresented by counsel, paid \$3,200 for work that was of no benefit to him,
6 and continued to receive lower pension payments than what he might have been entitled to.

7 38. The presumptive sanction for Count 13 under ABA Standard 4.61 is disbarment.

8 **Counts 11 and 14: Failure to Discontinue the Practice of Law While Suspended**

9 39. Respondent acted knowingly when he practiced law while suspended in Keith's
10 dissolution case.

11 40. Respondent's conduct caused actual harm to Keith because he was deprived of having
12 licensed counsel.

13 41. The presumptive sanction for Count 11 under ABA Standard 7.2 is suspension.

14 42. Respondent acted knowingly and with the intent to benefit himself when he practiced
15 law while suspended in Gary's case.

16 43. Respondent's conduct caused serious harm to Gary who was unaware for months that
17 he was effectively unrepresented by counsel, paid \$3,200 for work that was of no benefit to him,
18 and continued to receive lower pension payments than what he might have been entitled to.

19 44. The presumptive sanction for Count 14 under ABA Standard 7.1 is disbarment.

20 **Prior Discipline for Same or Similar Misconduct Counts 1, 2, 4, and 7-15**

21 45. Respondent's 2010 suspension was based on the same of similar misconduct that is
22 present in this proceeding.

23 46. Respondent knowingly engaged in the same misconduct that he was suspended for in
24

1 2010 in Counts 1, 2, 4, and 7-15.

2 47. Respondent's conduct caused injury or potential to his clients, the public, the legal
3 system, and the profession.

4 48. The presumptive sanction for Counts 1, 2, 4, and 7-15 is disbarment under ABA
5 Standard 8.1(b).

6 49. Under In re Disciplinary Proceeding Against Petersen, 120 Wn.2d 833, 854, 846 P.2d
7 1330 (1993), the "ultimate sanction imposed should at least be consistent with the sanction for
8 the most serious instance of misconduct among a number of violations."

9 50. The following aggravating factors set forth in Section 9.22 of the ABA Standards
10 apply in this case:

- 11 (a) prior disciplinary offenses [In 2010, Respondent was suspended from
12 practicing law for six months for a lack of diligence, practicing while
13 suspended, failure to communicate, and failure to cooperate with a
14 disciplinary investigation];
- 15 (c) a pattern of misconduct;
- 16 (d) multiple offenses; and
- 17 (i) substantial experience in the practice of law [Respondent was admitted to
18 practice in 1985].

19 51. It is an additional aggravating factor that Respondent failed to file an answer to the
20 Formal Complaint as required by ELC 10.5(a).

21 52. No mitigating factors under ABA Standard 9.32 apply.

22 53. The aggravating and mitigating factors do not provide cause to deviate from the
23 presumptive sanction of disbarment.

24 **RECOMMENDATION**

25 54. Based on the ABA Standards and the applicable aggravating and mitigating factors,
26 the Hearing Officer recommends that Respondent Gary Evan Randall be disbarred and pay
27 restitution in the amount of \$3,200 to Gary Wolford and \$1,200 to Leslie Nelson plus interest at
28

1 a rate of 12 percent per annum beginning January 1, 2018.

2 DATED this 10th day of July, 2019.

3
4 Randolph O. Petgrave
5 Randolph Petgrave III, Bar No. 26046
6 Chief Hearing Officer

7
8
9 CERTIFICATE OF SERVICE

10 I certify that I caused a copy of the Amended FOF, COL by HD's Recommendation
11 to be delivered to the Office of Disciplinary Counsel and to be mailed
12 to Gary Randall, ~~Respondent~~/Respondent's Counsel
13 at _____, by Certified/first class mail
14 postage prepaid on the 10th day of July, 2019

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17311 125th Ave NE
Woodinville, WA 98072
Clerk/Counsel to the Disciplinary Board

FILED

April 24 2019

Disciplinary
Board

Docket # 005

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7 BEFORE THE
8 DISCIPLINARY BOARD
9 OF THE
10 WASHINGTON SUPREME COURT

11 In re

GARY EVAN RANDALL,

Lawyer (Bar No. 15020).

Proceeding No. 19#00012

FORMAL COMPLAINT

12
13
14 Under Rule 10.3 of the Washington Supreme Court's Rules for Enforcement of Lawyer
15 Conduct (ELC), the Office of Disciplinary Counsel (ODC) of the Washington State Bar
16 Association (WSBA) charges the above-named lawyer with acts of misconduct under the
17 Washington Supreme Court's Rules of Professional Conduct (RPC) as set forth below.

18 **ADMISSION TO PRACTICE**

19 1. Respondent Gary Evan Randall was admitted to the practice of law in the State of
20 Washington on May 28, 1985.

21 2. On May 11, 2017, The Washington Supreme Court entered an Order immediately
22 suspending Respondent from the practice of law on an interim basis pursuant to ELC 7.2(a)(3).

23 3. On October 22, 2018, the Washington Supreme Court entered an Order immediately

1 suspending Respondent from the practice of law on an interim basis pursuant to ELC 7.2(a)(3).

2 4. Respondent remains suspended to date.

3 **FACTS REGARDING COUNTS 1 - 7 (Hagen Grievance)**

4 **Jenson Hagen matter**

5 5. Geraldine Hagen (Geraldine),¹ a Washington resident, owned substantial mineral
6 rights in property in North Dakota.

7 6. Geraldine died in 1994.

8 7. Under Geraldine's will, the mineral rights were placed in a trust and were to be
9 distributed to her grandchildren when the youngest turned 21.

10 8. Geraldine named her son, James Hagen, executor of the trust and designated his son,
11 Jenson Hagen (Geraldine's grandson), to be the secondary executor.

12 9. James died in 2007, but his name remained on Geraldine's trust as the executor.

13 10. In or around early 2013, relatives contacted Jenson and his mother to inquire about
14 the mineral rights and Jenson decided to have the trust updated to substitute himself as the
15 successor trustee so he could distribute the mineral rights when the time came.

16 11. Jenson contacted Respondent and hired him to do the paperwork required to
17 accomplish this.

18 12. Jenson gave Respondent Geraldine's original will, the trust documents, a map
19 showing the location of the mineral rights, and a verification form from Morton County, North
20 Dakota, that identified the trust executor.

21 13. Over the next several months, Jenson called Respondent three times for an update.

22 14. During each call, Respondent admitted he had not started work on the matter, but

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¹ First names are used for ease of reference. No disrespect is intended.

1 stated he would do so right away.

2 15. Jenson continued calling, leaving messages, and emailing Respondent, but received
3 no response.

4 16. On May 13, 2013, Jenson emailed Respondent that he would not make further
5 attempts to resolve the matter and he wanted to pick up the original records he had left with
6 Respondent.

7 17. Respondent never returned Jenson's documents.

8 18. Respondent had no further contact with Jenson.

9 19. Jenson hired other counsel to perform the work Respondent failed to perform.

10 20. Once the new counsel had copies of the relevant documents, he was able to complete
11 the necessary work within a few weeks.

12 21. Respondent knowingly failed to take any action to accomplish Jenson's stated
13 objective and to keep him informed on the status of his matter and, as a result, the trust
14 document remained out of date until Jenson hired another lawyer to do the work Respondent
15 failed to do.

16 **Nancy Hagen Matter**

17 22. When James died in 2007, the family home was held jointly in the names of James
18 and his wife, Nancy (Jenson's mother).

19 23. Nancy was appointed Personal Representative of James's estate.

20 24. In 2016, Nancy was terminally ill.

21 25. Nancy wished to execute a quitclaim deed to transfer the family home to her sole
22 name before she died.

23 26. Nancy contacted Respondent about the deed transfer.

1 27. Respondent was aware of Nancy's medical condition.

2 28. Several months passed, but Respondent took no action regarding Nancy's request.

3 29. Nancy and Jenson called and emailed Respondent about the matter, but he gradually
4 stopped responding.

5 30. Respondent had appeared as counsel in the probate of James's estate, but had not
6 concluded it nor withdrawn from the representation, leaving it unresolved.

7 31. Jenson obtained new counsel, who called and sent Respondent a Withdrawal and
8 Substitution to sign.

9 32. Respondent did not return the document or the counsel's telephone calls.

10 33. The new counsel prepared a note for Nancy to sign and terminate Respondent's
11 services, so that the new counsel could substitute for him and transfer James's interest in the
12 family home to Nancy.

13 34. Two days later, Nancy died without having signed the note terminating
14 Respondent's services.

15 35. Respondent's failure to take any action on Nancy's deed transfer, to withdraw from
16 the probate of James's estate, and to respond to Nancy's successor counsel, made the
17 administration of Nancy's estate more complicated and expensive.

18 **Non-Cooperation and Interim Suspension - Hagen Grievance**

19 36. On August 2, 2016, Jenson filed a grievance against Respondent.

20 37. On August 5, 2019, Disciplinary Counsel mailed Respondent a copy of Jenson's
21 grievance and a letter requesting that he provide a written response within thirty (30) days.

22 38. Respondent did not respond.

23 39. On September 8, 2016, Disciplinary Counsel mailed Respondent a letter informing

1 him that, if he failed to provide a written response to the grievance within ten days, he would be
2 subpoenaed for a deposition and his failure to respond might subject him to interim suspension.

3 40. Respondent did not respond.

4 41. On September 22, 2016, Disciplinary Counsel issued a subpoena duces tecum
5 commanding Respondent to appear for deposition on October 24, 2016 and to produce specified
6 records.

7 42. Respondent was personally served with the subpoena but did not appear for
8 deposition, produce records, or submit a written response to the grievance.

9 43. On March 7, 2017, Disciplinary Counsel filed a Petition with the Washington
10 Supreme Court for Respondent's Interim Suspension under ELC 7.2(a)(3).

11 44. On March 9, 2017, the Court issued an Order to Show Cause for Respondent to
12 appear before the Court on May 11, 2017.

13 45. Respondent was personally served with the Order to Show Cause and ODC's
14 Petition for Interim Suspension, but did not appear on May 11, 2017.

15 46. On May 11, 2017, the Court entered an Order Granting ODC's Petition for Interim
16 Suspension, effective immediately.

17 47. On May 30, 2017, ODC received a letter from Respondent, but the letter did not
18 provide a full or complete response to Jenson's grievance and did not include the subpoenaed
19 records.

20 48. Because this response was incomplete, Disciplinary Counsel issued another
21 subpoena duces tecum for Respondent to appear for deposition and produce records on June 17,
22 2017.

23 49. The subpoena was personally served on Respondent, but he did not appear or

1 produce records, and he had no further communication with ODC regarding the Hagens.

2 50. Respondent knowingly failed to cooperate with ODC's investigation and was aware
3 of his obligation to do so, because he had been suspended on an interim basis in 2009 for failing
4 to cooperate with an ODC investigation in another matter.

5 51. Respondent's conduct caused harm to the disciplinary system by obstructing the
6 grievance investigation and requiring ODC to expend limited resources in attempts to obtain his
7 cooperation.

8 **COUNT 1**

9 52. By failing to act with reasonable diligence and promptness in representing Jenson,
10 Respondent violated RPC 1.3.

11 **COUNT 2**

12 53. By failing to respond to Jenson's reasonable requests for information and/or keep
13 him reasonably informed about the status of his matter, Respondent violated RPC 1.4(a).

14 **COUNT 3**

15 54. By failing to take steps reasonably practicable to protect Jenson's interest and/or
16 return his original documents, Respondent violated RPC 1.16(d).

17 **COUNT 4**

18 55. By failing to act with reasonable diligence and promptness in representing Nancy,
19 Respondent violated RPC 1.3.

20 **COUNT 5**

21 56. By failing to promptly comply with Nancy's reasonable requests for information
22 and/or keep her reasonably informed about the status of her legal matter, Respondent violated
23 RPC 1.4(a).

1 **COUNT 6**

2 57. By failing to withdraw from representing Nancy in the probate matter when
3 requested to do so, Respondent violated RPC 1.16(a)(3) and/or RPC 1.16(d).

4 **COUNT 7**

5 58. By failing to respond to Disciplinary Counsel's requests for information relevant to
6 Jenson's grievance and/or to appear for deposition and/or to produce documents after being
7 served with a subpoena duces tecum, Respondent violated ELC 1.5 and/or ELC 5.3(f), and/or
8 ELC 5.3(g) and/or ELC 5.5(d), thereby violating RPC 8.1(b) and/or RPC 8.4(l).

9 **FACTS REGARDING COUNT 8 (Nelson grievance)**

10 59. Leslie Nelson hired Respondent in May 2016 to oppose her eviction from a
11 condominium, and again in July 2016, to represent her regarding a claim she had filed against
12 the governor under Washington's Public Records Act.

13 60. On or about August 8, 2017, Ms. Nelson filed a grievance against Respondent.

14 61. In her grievance, Ms. Nelson claimed that Respondent had failed to file a stay in the
15 eviction matter, resulting in her removal from the property.

16 62. She also claimed that Respondent had repeatedly ignored her requests that he
17 withdraw from her representation in the Public Records Act case, and had instead billed her for
18 excessive fees while mishandling her case.

19 63. Finally, she claimed that Respondent continued to appear in her public records case
20 after May 11, 2017, while he was suspended from practice.

21 **Non-cooperation**

22 64. On August 11, 2017, Disciplinary Counsel mailed Respondent a copy of Ms.
23 Nelson's grievance and a letter requesting that he file a written response within thirty (30) days.

1 65. Respondent did not respond.

2 66. On September 14, 2017, Disciplinary Counsel mailed Respondent a letter informing
3 him that, if he failed to provide a written response to the grievance within 10 days, he would be
4 subpoenaed for a deposition and his failure to respond might subject him to interim suspension.

5 67. Respondent did not respond.

6 68. On October 2, 2017, Disciplinary Counsel issued a subpoena duces tecum
7 commanding Respondent to appear for deposition on November 7, 2017, and to produce
8 specified records.

9 69. Respondent was personally served with the subpoena duces tecum but did not appear
10 for deposition, produce records, or submit a written response to the grievance.

11 70. Respondent knowingly failed to respond to Ms. Nelson's grievance, failed to appear
12 for his deposition, and failed to produce subpoenaed records.

13 71. Respondent's conduct caused harm to the disciplinary system by obstructing the
14 grievance investigation and requiring ODC to expend limited resources in attempts to obtain his
15 cooperation.

16 **COUNT 8**

17 72. By failing to respond to Disciplinary Counsel's requests for information relevant to
18 Ms. Nelson's grievance, and/or to appear for deposition and/or to produce documents after
19 being served with a subpoena duces tecum, Respondent violated ELC 1.5 and/or ELC 5.3(f),
20 and/or ELC 5.3(g) and/or ELC 5.5(d), thereby violating RPC 8.1(b) and/or RPC 8.4(l).

21 **FACTS REGARDING COUNTS 9 - 11 (ODC grievance)**

22 73. In or around July 2016, Keith Selner hired Respondent to represent him in
23 dissolution proceedings to be filed in King County Superior Court.

1 74. Over the following nine months, Respondent worked on the matter but did not file
2 anything with the court.

3 75. On May 11, 2017, the Supreme Court notified Respondent that his license to practice
4 law was being suspended immediately, due to his failure to cooperate in the investigation of the
5 Hagen grievance.

6 76. Respondent did not inform Mr. Selner of his suspension.

7 77. Respondent did not inform Mr. Selner that he needed to obtain other counsel to
8 represent him.

9 78. On May 22, 2017, Respondent electronically filed Mr. Selner's Petition for
10 Dissolution, Summons, and related papers in King County Superior Court.

11 79. Thereafter, Respondent continued to bill and accept payment for work performed on
12 Mr. Selner's case through September 13, 2017.

13 80. In August 2017, an ODC investigator informed Mr. Selner that Respondent had been
14 suspended from practice.

15 81. Mr. Selner hired other counsel who entered an appearance in the dissolution case on
16 September 12, 2017.

17 82. Respondent did not withdraw from representing Mr. Selner in the dissolution matter.

18 83. Respondent knowingly failed to inform Ms. Selner of his suspension from practice
19 and knowingly continued his representation while suspended by filing pleadings with the court,
20 billing and accepting payment for services, and failing to withdraw from the Selner dissolution
21 case.

22 **Non-Cooperation**

23 84. On or about August 15, 2017, ODC opened a grievance based on Respondent's

1 alleged practice of law while suspended and failure to notify Mr. Selner of his suspension.

2 85. On August 22, 2017, Disciplinary Counsel sent Respondent a letter advising him of
3 the grievance and requesting his written response within thirty days.

4 86. Respondent did not respond.

5 87. On October 2, 2017, Disciplinary Counsel mailed Respondent a letter informing him
6 that, if he failed to provide a written response to the grievance within 10 days, he would be
7 subpoenaed for a deposition and his failure to respond might subject him to interim suspension.

8 88. Respondent did not respond.

9 89. On October 17, 2017, Disciplinary Counsel issued a subpoena duces tecum
10 commanding Respondent to appear for his deposition and produce specified records on
11 November 7, 2017.

12 90. The subpoena duces tecum was personally served on Respondent on October 30,
13 2017.

14 91. Respondent did not appear for his deposition on November 7, 2017, produce any
15 records, or submit a written response to the grievance.

16 92. Respondent knowingly failed to respond to ODC's grievance, failed to appear for his
17 deposition, and failed to produce subpoenaed records.

18 93. Respondent's conduct caused harm to the disciplinary system by obstructing the
19 grievance investigation and requiring ODC to expend limited resources in attempts to obtain his
20 cooperation.

21 **COUNT 9**

22 94. By failing to respond to Disciplinary Counsel's requests for information relevant to
23 ODC's grievance and/or to appear for deposition and/or to produce documents after being

1 served with a subpoena duces tecum, Respondent violated ELC 1.5, ELC 5.3(f), ELC 5.3(g),
2 and/or ELC 5.5(d), thereby violating RPC 8.1(b) and/or RPC 8.4(l).

3 **COUNT 10**

4 95. By failing to notify Mr. Selner of his suspension, Respondent violated RPC 1.4
5 and/or ELC 14.1(c), thereby violating RPC 8.4(l).

6 **COUNT 11**

7 96. By continuing to practice law while suspended and/or by failing to withdraw from
8 Mr. Selner's case, Respondent violated RPC 1.16(a)(1), RPC 5.5(a), RPC 5.8(a), RPC 8.4(b)
9 (by violating RCW 2.48.180 (unlawful practice of law a crime)), RPC 8.4(d), RPC 8.4(j), and/or
10 ELC 14.2(a), thereby violating RPC 8.4(l).

11 **FACTS REGARDING COUNTS 12 - 15 (Wolford grievance)**

12 97. The marriage of Gary Wolford and Carrie Ann Wolford was dissolved in 1998.

13 98. The parties' property settlement agreement provided that Carrie Ann would receive a
14 portion of Gary's pension from the Teamsters Pension Trust.

15 99. In or around 2016, Gary questioned the calculation of the pension benefit Carrie Ann
16 was receiving from the Teamsters under a previously executed Qualified Domestic Relations
17 Order (QDRO).

18 100. In or around September 2016, Gary hired Respondent to contact the pension plan
19 and ascertain the correct calculation.

20 101. Over the following months, Respondent failed to return Gary's calls asking
21 whether he had contacted the Teamsters Pension Trust and obtained a breakdown of the
22 calculations.

23 102. The Washington Supreme Court suspended Respondent's license to practice law

1 on May 11, 2017 for his failure to cooperate in the investigation of the Hagen grievance.

2 103. Respondent did not notify Gary of his suspension.

3 104. At the time of his suspension, Respondent was drafting pleadings for Gary to
4 bring a civil suit against the Teamsters.

5 105. From the time his suspension took effect through at least August 2017,
6 Respondent continued working on Gary's matter, giving Gary legal advice, issuing invoices,
7 and accepting payment for his work.

8 106. On October 16, 2017, Respondent filed a civil complaint against Carrie Ann and
9 the Teamsters Pension Trust (the lawsuit) on Gary's behalf in King County Superior Court.

10 107. In the complaint, Respondent stated he represented Gary and the court docket
11 listed him as attorney of record.

12 108. Respondent did not inform the court of his suspension.

13 109. Respondent did not inform Gary that he had filed the lawsuit.

14 110. Gary had not authorized Respondent to file the lawsuit.

15 111. In mid-October 2017, Gary called Respondent to ask whether Respondent had
16 prepared or filed pleadings, but Respondent did not return his call.

17 112. Shortly thereafter, Gary and his wife Tina visited Respondent's office to obtain
18 copies of work Respondent had done.

19 113. Respondent called the police and claimed Gary and Tina were trespassing.

20 114. Respondent agreed to provide Gary with copies of pleadings, but he did not
21 inform Gary that he had filed a lawsuit on Gary's behalf.

22 115. Upon Teamsters' motion, the lawsuit was removed to United States District
23 Court for the Western District of Washington (USDC) on November 7, 2017.

1 116. The USDC docket listed Respondent as plaintiff's counsel.

2 117. The business address that Respondent listed with the USDC was not his actual
3 business address of record, but one that belonged to a long-defunct Bellevue law firm and was
4 no longer valid.

5 118. Respondent knowingly misrepresented his business address to the USDC.

6 119. Gary remained unaware of Respondent's suspension until an ODC investigator
7 contacted him on or about November 15, 2017 and conveyed that information.

8 120. When the USDC sent correspondence to Respondent at the invalid business
9 address he had provided, it was returned by the postal service as undeliverable.

10 121. On or about November 28, 2017, the court consulted its records and discovered
11 that Respondent had been suspended by the USDC since February 4, 2011.

12 122. The court also consulted the WSBA website and learned of Respondent's May
13 11, 2017 suspension by the Washington Supreme Court.

14 123. On or about November 28, 2017, the USDC notified Gary that he needed to
15 arrange for a lawyer admitted to the USDC if he wished to be represented.

16 124. Respondent did not withdraw from the USDC case.

17 125. Gary did not obtain other counsel and the USDC granted Teamsters' Motion to
18 Dismiss, without prejudice, on March 15, 2018.

19 126. In all, Gary paid Respondent at least \$3,200 for his services.

20 127. Respondent knowingly deceived his client, the King County Superior Court and
21 the USDC regarding the status of his license to practice law, knowingly practiced law while
22 suspended, and knowingly failed to communicate with his client concerning his legal matter.

23 128. Gary was injured because he paid Respondent \$3,200 for work that did not

1 achieve his objective or confer any benefit on him, and the pension payments to Gary's ex-wife
2 have continued as is, diminishing the amount of payments Gary receives.

3 **Non-Cooperation**

4 129. In January 2018, Gary filed a grievance against Respondent.

5 130. Disciplinary Counsel sent Respondent a copy of the grievance on January 30,
6 2018, with a request that he provide a written response within thirty days.

7 131. Respondent did not respond.

8 132. On March 20, 2018, Disciplinary Counsel sent Respondent a letter directing him
9 to file a written response to the grievance within ten days or he would be subpoenaed for
10 deposition.

11 133. Respondent did not respond.

12 **Interim Suspension – Nelson, ODC and Wolford Grievances**

13 134. On or about August 21, 2018, Disciplinary Counsel filed a Petition for
14 Respondent's Interim Suspension under ELC 7.2(a)(3) based on his failure to cooperate in the
15 investigation of the grievances filed by Ms. Nelson, ODC and Mr. Wolford

16 135. On August 24, 2018, the Washington Supreme Court entered an Order to Show
17 Cause requiring Respondent to appear on October 18, 2018 to show cause why the petition
18 should not be granted.

19 136. The Order to Show Cause and Petition were personally served on Respondent on
20 September 12, 2018.

21 137. Respondent did not file a response or contact the Court.

22 138. On October 22, 2018, the Court suspended Respondent's license to practice
23 pursuant to ELC 7.2(a)(3).

1 139. Respondent's suspension remains in effect at present.

2 **COUNT 12**

3 140. By failing to keep his client reasonably informed about the status of his matter,
4 to promptly comply with his reasonable requests for information, and/or to explain a matter to
5 the extent reasonably necessary to permit the client to make informed decisions regarding the
6 representation, Respondent violated RPC 1.4.

7 **COUNT 13**

8 141. By failing to inform his client of his suspension from practice and/or to consult
9 with his client about any relevant limitation on his conduct when Respondent knew that the
10 client expected assistance not permitted by the RPC or other law, Respondent violated RPC 1.4
11 and/or ELC 14.1(c), thereby violating RPC 8.4(l).

12 **COUNT 14**

13 142. By failing to discontinue the practice of law while suspended and/or by failing to
14 withdraw from Gary's case, Respondent violated RPC 1.16(a)(1), RPC 5.5(a), RPC 5.8(a), RPC
15 8.4(b) (by violating RCW 2.48.180 (unlawful practice of law a crime)), RPC 8.4(d), RPC 8.4(j),
16 and/or ELC 14.2(a), thereby violating RPC 8.4(l).

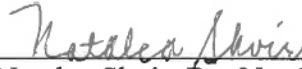
17 **COUNT 15**

18 143. By failing to respond to Disciplinary Counsel's requests for information relevant
19 to Gary's grievance and/or to appear for deposition and/or to produce documents after being
20 served with a subpoena duces tecum, Respondent violated ELC 1.5, ELC 5.3(f), ELC 5.3(g),
21 and/or ELC 5.5(d), thereby violating RPC 8.4(l).

22
23 THEREFORE, Disciplinary Counsel requests that a hearing be held under the Rules for

1 Enforcement of Lawyer Conduct. Possible dispositions include disciplinary action, probation,
2 restitution, and assessment of the costs and expenses of these proceedings.

3
4 Dated this 24th day of April, 2019.

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7 _____
8 Natalea Skvir, Bar No. 34335
9 Disciplinary Counsel
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