

FILED

Dec 16 2019

Disciplinary
Board

Docket # 025

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BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON SUPREME COURT

In re

RODNEY R. MOODY,
Lawyer (Bar No. 17416),

Proceeding No. 18#00054

ODC File No. 18-00053

STIPULATION TO ADMONITION

Under Rule 9.1 of the Washington Supreme Court's 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 Jonathan Burke and Respondent lawyer Rodney R. Moody.

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

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

2 | **I. ADMISSION TO PRACTICE**

3 | 1. Respondent was admitted to practice law in the State of Washington on October 28,
4 | 1987.

5 | **II. STIPULATED FACTS**

6 | 2. On March 3, 2017, Ron Gibson, appearing pro se, filed a discrimination and
7 | defamation lawsuit against his employer, Snohomish County, and other affiliated defendants in
8 | King County Superior Court.

9 | 3. On March 31, 2017, Mr. Gipson's matter was removed to the United States District
10 | Court for the Western District of Washington.

11 | 4. On May 19, 2017, Respondent filed a notice of appearance on Mr. Gipson's behalf.

12 | 5. On July 5, 2017, Respondent filed a motion to amend the complaint to which he
13 | attached Exhibit A and Exhibit B.

14 | 6. Exhibit A was a redlined copy of the proposed amended complaint that contained
15 | new text as well as text from the initial complaint, some of which was crossed out with a
16 | horizontal line struck through the center (i.e. ~~text~~).

17 | 7. Exhibit B was a clean copy of the proposed amended complaint.

18 | 8. The proposed amended complaint reduced the number of defendants from eleven to
19 | six and dismissed three causes of action that should not have been pled.

20 | 9. On September 1, 2017, Chief United States District Judge Ricardo Martinez granted
21 | Respondent's motion to amend the complaint and ordered Respondent to file the amended
22 | complaint within seven (7) days and serve the defendants within 14 days of the order.

23 | 10. Respondent negligently failed to file the amended complaint within the 7-day period.

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2 11. Following the court's September 1, 2017 order, Respondent tried to have two
3 defendants personally served within the 14-day period, but was unsuccessful. Respondent did
4 not attempt to personally serve three of the defendants because their lawyers previously
5 informed Respondent that they would agree to accept service for their clients. Respondent
6 incorrectly assumed that he did not need to provide them with another copy of the amended
7 complaint and obtain a signed service waiver after the lawyers agreed to accept service.
8 Respondent did not attempt service on one of the defendants within the 14-day period.

9 12. On September 26, 2017, September 29, 2017, and October 12, 2017, the defendants
10 moved to dismiss Mr. Gipson's lawsuit on the grounds that Respondent failed to timely file and
11 serve the amended complaint.

12 13. Respondent filed the amended complaint on October 13, 2017.

13 14. In an order dated October 31, 2017, the court dismissed Mr. Gipson's matter without
14 prejudice for failing to comply with the deadlines in the September 1, 2017 order.

15 15. Respondent reports that since the dismissal he has taken remedial action by setting
16 up an electronic calendaring system for meeting deadlines.

17 16. On December 8, 2017, Respondent refiled Mr. Gipson's lawsuit against the four
18 individual defendants named in the prior lawsuit.

19 17. In or around late November 2017, Respondent served a claim against Snohomish
20 County, which was required before Mr. Gipson's lawsuit could be refiled against the County.
21 After the time period for responding to the claim expired, Respondent refiled Mr. Gipson's
22 lawsuit against Snohomish County on January 16, 2018.

23 18. Mr. Gipson was not injured in connection with the dismissal because Respondent

1 promptly refiled the lawsuit, paid the associated costs, and did not charge Mr. Gipson additional
2 fees because he was representing him on a contingent fee basis at the time.

3 19. The defendants did not seek any assessment of attorney fees in connection with the
4 dismissal of the lawsuit.

5 20. The lawsuits were subsequently consolidated.

6 21. Respondent ultimately settled Mr. Gipson's claims for \$20,000.

7 **III. STIPULATION TO MISCONDUCT**

8 22. By failing to timely file and serve the amended complaint, Respondent violated RPC
9 8.4(d) (conduct prejudicial to the administration of justice).

10 **IV. PRIOR DISCIPLINE**

11 23. Respondent was suspended for 60 days in January 2017 for trust account violations
12 and for failing to refund unearned fees.

13 24. Respondent was suspended for 18 months in July 2008 for trust account violations
14 and failing to heed client directions.

15 **V. APPLICATION OF ABA STANDARDS**

16 25. The following American Bar Association Standards for Imposing Lawyer Sanctions
17 (1991 ed. & Feb. 1992 Supp.) apply to this case:

18 **6.2 Abuse of the Legal Process**

19 Absent aggravating or mitigating circumstances, upon application of the factors set out
20 in Standard 3.0, the following sanctions are generally appropriate in cases involving
21 failure to expedite litigation or bring a meritorious claim, or failure to obey any
22 obligation under the rules of a tribunal except for an open refusal based on an assertion
23 that no valid obligation exists:

22 6.21 Disbarment is generally appropriate when a lawyer knowingly violates a court
23 order or rule with the intent to obtain a benefit for the lawyer or another, and
causes serious injury or potentially serious injury to a party or causes serious or
potentially serious interference with a legal proceeding.

1 6.22 Suspension is generally appropriate when a lawyer knows that he or she is
2 violating a court order or rule, and causes injury or potential injury to a client or
a party, or causes interference or potential interference with a legal proceeding.

3 6.23 Reprimand is generally appropriate when a lawyer negligently fails to comply
4 with a court order or rule, and causes injury or potential injury to a client or other
party, or causes interference or potential interference with a legal proceeding.

5 6.24 Admonition is generally appropriate when a lawyer engages in an isolated
6 instance of negligence in complying with a court order or rule, and causes
little or no actual or potential injury to a party, or causes little or no actual
7 or potential interference with a legal proceeding.

8 26. Respondent negligently failed to file and serve the amended complaint within the
9 timeframe ordered by the court.

10 27. Respondent's actions caused minimal delay to the legal proceeding because he
11 promptly re-filed the claim and lawsuits, and caused little or no harm to his client.

12 28. The presumptive sanction under ABA Standard 6.24 is admonition.

13 29. The following aggravating factors apply under ABA Standard 9.22:

14 (a) prior disciplinary offenses; and

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

16 30. The following mitigating factors apply under ABA Standard 9.32:

17 (b) absence of a dishonest or selfish motive;

18 (c) timely good faith effort to rectify consequences of misconduct; and

19 (l) remorse.

20 31. On balance the aggravating and mitigating factors do not require a departure from
21 the presumptive sanction of admonition.

22 VI. STIPULATED DISCIPLINE

23 32. The parties stipulate that Respondent shall receive an admonition for his conduct.

24 33. Respondent agrees to the entry of the Admonition attached hereto as Exhibit A.

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VII. RESTITUTION

34. Restitution is not required by this Stipulation.

VIII. COSTS AND EXPENSES

35. In light of Respondent's willingness to resolve this matter by stipulation, Respondent shall pay attorney fees and administrative costs of \$811.63 in accordance with ELC 13.9(i). The Association will seek a money judgment under ELC 13.9(l) if these costs are not paid within 30 days of approval of this stipulation.

IX. VOLUNTARY AGREEMENT

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

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

X. LIMITATIONS

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

39. This Stipulation is not binding upon ODC or the respondent as a statement of all existing facts relating to the professional conduct of the respondent lawyer, and any additional

1 existing facts may be proven in any subsequent disciplinary proceedings.

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

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

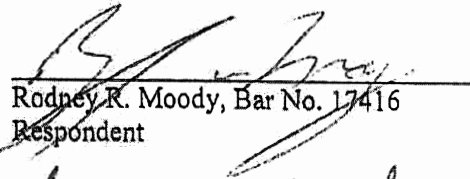
12 42. If this Stipulation is approved by the Hearing Officer, it will be followed by the
13 disciplinary action agreed to in this Stipulation. All notices required in the Rules for
14 Enforcement of Lawyer Conduct will be made.

15 43. If this Stipulation is not approved by the Hearing Officer, this Stipulation will have
16 no force or effect, and neither it nor the fact of its execution will be admissible as evidence in
17 the pending disciplinary proceeding, in any subsequent disciplinary proceeding, or in any civil
18 or criminal action.

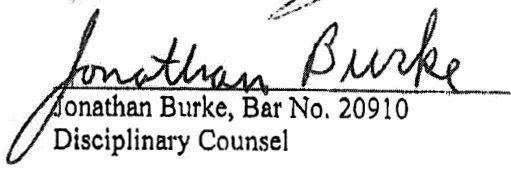
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WHEREFORE the undersigned being fully advised, adopt and agree to this Stipulation
to Reprimand as set forth above.


Rodney R. Moody, Bar No. 17416
Respondent

Dated: 12/12/19


Jonathan Burke, Bar No. 20910
Disciplinary Counsel

Dated: 12/13/19