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FILED

MAY 02 2014

DISCIPLINARY BOARD

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

WILLIAM G. SIMMONS,
Lawyer (Bar No. 19071).

Proceeding No. 14#00024

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 Francesca D'Angelo and Respondent lawyer William Guyton Simmons.

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
Page 1

OFFICE OF DISCIPLINARY COUNSEL
OF THE WASHINGTON STATE BAR ASSOCIATION
1325 4th Avenue, Suite 600
Seattle, WA 98101-2539
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005

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

2 **I. ADMISSION TO PRACTICE**

3 1. Respondent was admitted to practice law in the State of Washington on November
4 16, 1989.

5 **II. STIPULATED FACTS**

6 2. In or around December 2011, Respondent filed a complaint for negligence in
7 Snohomish County Superior Court against Scott Bishop on behalf of his client Inna Ananko.

8 3. Respondent represented Ms. Ananko on a contingency fee basis.

9 4. Mr. Bishop was represented by lawyer Morgan Chaput.

10 5. On or around March 9, 2012, Ms. Chaput mailed interrogatories and requests for
11 production to Respondent.

12 6. Respondent received the interrogatories and requests for productions.

13 7. Respondent did not provide responses to the interrogatories and requests for
14 production by the due date.

15 8. On or around May 2, 2012, Ms. Chaput wrote to Respondent stating the answers
16 were overdue and requesting an update.

17 9. Respondent did not respond to Ms. Chaput's May 2, 2012 letter.

18 10. On May 30, 2012, Ms. Chaput sent another letter to Respondent scheduling a
19 discovery conference for June 11, 2012.

20 11. Respondent did not attend the June 11, 2012 discovery conference.

21 12. On June 11, 2012, Ms. Chaput sent a letter to Respondent requesting an update on
22 his discovery requests.

23 13. Respondent did not respond.

1 14. On June 26, 2012, Ms. Chaput sent another letter to Respondent informing him she
2 had set another discovery conference for July 6, 2012.

3 15. Respondent did not respond or attend the July 6, 2012 discovery conference.

4 16. On July 13, 2012, Ms. Chaput filed a motion to compel discovery.

5 17. Respondent did not respond to the motion or appear for the hearing.

6 18. On July 27, 2012, the court entered an order granting defendant's motion to compel
7 and ordered that Plaintiff respond to the interrogatories and requests for production by no later
8 than August 15, 2012.

9 19. Respondent did not comply with the order.

10 20. On August 17, 2012, Ms. Chaput filed a motion to dismiss Ms. Ananko's suit with
11 prejudice.

12 21. On August 30, 2012, Ms. Ananko hired lawyer Souphavady Bounlutay (Ms.
13 Bounlutay).

14 22. On September 19, 2012, the court denied Ms. Chaput's motion to dismiss, but
15 entered an order awarding the defendant's attorney \$500 in fees for Respondent's failure to
16 participate in discovery.

17 23. In or around May 2013, the case was settled and dismissed.

18 24. Ms. Bounlutay negotiated the award of attorney's fees down to \$250 as part of the
19 settlement.

20 25. Ms. Ananko paid the \$250 attorney fees from her settlement.

21 III. STIPULATION TO MISCONDUCT

22 26. By failing to comply with discovery requests and by failing to appear for a hearing
23 on defendant's motion to compel, Respondent violated RPC 1.3, RPC 3.4(c), RPC 3.4(d) and

2 | **IV. PRIOR DISCIPLINE**

3 | 27. Respondent has no prior discipline.

4 | **V. APPLICATION OF ABA STANDARDS**

5 | 28. The following American Bar Association Standards for Imposing Lawyer Sanctions

6 | (1991 ed. & Feb. 1992 Supp.) apply to this case:

7 | ***4.4 Lack of Diligence***

8 | Absent aggravating or mitigating circumstances, upon application of the
9 | factors set out in Standard 3.0, the following sanctions are generally appropriate
10 | in cases involving a failure to act with reasonable diligence and promptness in
11 | representing a client:

12 | 4.41 Disbarment is generally appropriate when:

- 13 | (a) a lawyer abandons the practice and causes serious or potentially serious
14 | injury to a client; or
- 15 | (b) a lawyer knowingly fails to perform services for a client and causes
16 | serious or potentially serious injury to a client; or
- 17 | (c) a lawyer engages in a pattern of neglect with respect to client matters and
18 | causes serious or potentially serious injury to a client.

19 | 4.42 Suspension is generally appropriate when:

- 20 | (a) a lawyer knowingly fails to perform services for a client and causes
21 | injury or potential injury to a client, or
- 22 | (b) a lawyer engages in a pattern of neglect and causes injury or potential
23 | injury to a client.

24 | **4.43 Reprimand is generally appropriate when a lawyer is negligent and
does not act with reasonable diligence in representing a client, and
causes injury or potential injury to a client.**

4.44 Admonition is generally appropriate when a lawyer is negligent and does
not act with reasonable diligence in representing a client, and causes little
or no actual or potential injury to a client.

6.2 Abuse of the Legal Process

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

6.21 Disbarment is generally appropriate when a lawyer knowingly violates a
court 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

1 or causes serious or potentially serious interference with a legal
proceeding.

2 6.22 Suspension is generally appropriate when a lawyer knows that he or she
3 is 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.

4 **6.23 Reprimand is generally appropriate when a lawyer negligently fails
5 to comply 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.**

6 6.24 Admonition is generally appropriate when a lawyer engages in an
7 isolated 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 or potential interference with a legal proceeding.

8 29. Respondent was negligent in failing to respond to discovery requests and in failing
9 to attend the motion to compel hearing.

10 30. Respondent's failure to respond to discovery requests resulted in actual injury in that
11 it caused Ms. Ananko much stress and aggravation. She was also sanctioned \$500 by the court,
12 of which she had to pay \$250.

13 31. The presumptive sanction is reprimand.

14 32. The following aggravating factors apply under ABA Standard 9.22:

15 (i) Substantial experience in the practice of law [Respondent was admitted to
16 practice in Washington in 1989].

17 33. The following mitigating factors apply under ABA Standard 9.32:

18 (a) absence of a disciplinary record;
19 (l) remorse.

20 34. It is an additional mitigating factor that Respondent has agreed to resolve this matter
21 at an early stage of the proceedings.

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

1 **VI. STIPULATED DISCIPLINE**

2 36. The parties stipulate that Respondent shall receive a reprimand for his conduct.

3 **VII. RESTITUTION**

4 37. Respondent shall pay \$250 to Inna Ananko within 30 days of the date of this
5 Stipulation.

6 **VIII. COSTS AND EXPENSES**

7 38. In light of Respondent's willingness to resolve this matter by stipulation at an early
8 stage of the proceedings, Respondent shall pay attorney fees and administrative costs of \$750 in
9 accordance with ELC 13.9(i). The Association will seek a money judgment under ELC 13.9(i)
10 if these costs are not paid within 30 days of approval of this stipulation.

11 **IX. VOLUNTARY AGREEMENT**

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

17 **X. LIMITATIONS**

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

23 41. This Stipulation is not binding upon ODC or the respondent as a statement of all

1 existing facts relating to the professional conduct of the respondent lawyer, and any additional
2 existing facts may be proven in any subsequent disciplinary proceedings.

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

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

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

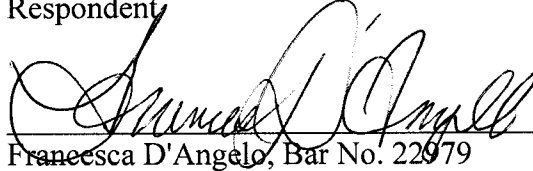
16 45. If this Stipulation is not approved by the Hearing Officer, this Stipulation will have
17 no force or effect, and neither it nor the fact of its execution will be admissible as evidence in
18 the pending disciplinary proceeding, in any subsequent disciplinary proceeding, or in any civil
19 or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

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

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Dated: 4-23-14

4 William Guyton Simmons, Bar No. 19071
5 Respondent

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Dated: 4-25-14

7 Francesca D'Angelo, Bar No. 22979
8 Disciplinary Counsel
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