

APR 25 2012

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

Proceeding No. 12#00103

JOHN JOSEPH BAKER,
Lawyer (Bar No. 22951).

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

In accordance with Rule 10.6 of the Rules for Enforcement of Lawyer Conduct (ELC),
the undersigned Hearing Officer held a default hearing on April 22, 2012.

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

1. The Formal Complaint (attached), charged Respondent John J. Baker with
misconduct as set forth therein.

2. 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.

DEL 3. Under ELC 10.6(a)(4), the Hearing Officer concludes that violations charged in the
Formal Complaint *are* admitted and established as follows:

4. Count 1. By failing to properly serve the correct individual within the appropriate

020

1 time frame and by failing to attend the summary judgment hearing, Respondent violated RPC
2 1.3.

3 5. Count 2. By filing suit on Ms. Pratt's behalf against her wishes and without
4 informing her that he was doing so, Respondent violated RPC 1.2(a).

5 6. Count 3. By failing to communicate with Ms. Pratt and by failing keep her
6 informed about of the status of her case, Respondent violated RPC 1.4(a)(3), and RPC 1.4(a)(4)
7 and RPC 1.4(b).

8 7. Count 4. By failing to respond to the Association's request for additional
9 information about Ms. Pratt's grievance and by failing to appear at his deposition, Respondent
10 violated RPC 8.4(d).

11 **FINDINGS OF FACTS AND CONCLUSIONS OF LAW**
12 **REGARDING RECOMMENDED SANCTION**

13 8. The following standards of the American Bar Association's Standards for
14 Imposing Lawyer Sanctions ("ABA Standards") (1991 ed. & Feb. 1992 Supp.) presumptively
15 apply in this case:

16 9. ABA Standard 4.4 applies to Count 1, Count 2, and Count 3:

17 **4.4 Lack of Diligence**

18 4.42 Suspension is generally appropriate when:

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

23 10. Respondent acted knowingly when he failed to inform the Pratts that he had filed
24 the lawsuit.

11. The Pratts were injured in that they were denied the opportunity to consult with
Respondent before he filed the lawsuit.

1 12. Respondent acted knowingly when he failed to inform the Pratts of the dismissal.

2 13. The Pratts were injured because their claims against the other driver are time-
3 barred.

4 14. The presumptive sanction for Counts 1, 2, and 3 is suspension.

5 15. ABA Standard 7.0 applies to Count 4:

6 **7.0 Violations of Duties Owed as a Professional**

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 injury or
potential injury to a client, the public, or the legal system.

9 16. Respondent knowingly failed to cooperate with the Association's investigation.

10 17. Respondent's conduct caused actual injury to the lawyer discipline system as a
11 whole, which depends on lawyer cooperation and honesty to function.

12 18. Respondent's conduct also caused actual harm to the Office of Disciplinary
13 Counsel in the form of increased effort and costs.

14 19. The presumptive sanction for Count 4 is suspension.

15 20. The following aggravating factors set forth in Section 9.22 of the ABA Standards
16 apply in this case:

- 17 (b) dishonest or selfish motive [Respondent's intent in not informing Ms. Pratt
18 about the summary judgment motion and the subsequent dismissal of her
case was to conceal his lack of diligence];
- 19 (d) multiple offenses;
- 20 (e) bad faith obstruction of the disciplinary proceeding by intentionally failing
to comply with rules or orders of the disciplinary agency [failure to file
21 answer to formal complaint as required by ELC 10.5(a)]¹;
- (g) refusal to acknowledge the wrongful nature of the conduct;

22 ¹ ELC 10.5(a) provides: "Failure to file an answer as required may be grounds for discipline and for an
23 order of default under rule 10.6." See In re Righter, 992 P.2d 1147, 1149 (Colo. 1999) (lawyer's "total
24 nonparticipation in these proceedings demonstrates a bad faith obstruction of the disciplinary process").

1 ~~(i) substantial experience in the practice of law. [Respondent was admitted in~~
2 ~~1993]; and~~ ~~(j) indifference to making restitution.~~ ~~Doc~~


3 21. The following mitigating factor set forth in Section 9.32 of the ABA Standards
4 applies to this case:

5 (a) absence of a prior disciplinary record.

6 **RECOMMENDATION**

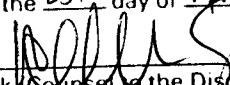
7 22. Based on the ABA Standards and the applicable aggravating and mitigating
8 factors, the Hearing Officer recommends that Respondent John Joseph Baker be suspended for
9 one year.

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11 DATED this 22 day of April, 2013.

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13 _____
14 David B. Condon,
15 Hearing Officer

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19 **CERTIFICATE OF SERVICE**

20 I certify that I caused a copy of the FOF COL & HD's Recommendation
21 to be delivered to the Office of Disciplinary Counsel and to be mailed
22 to John Baker, Respondent/Respondent's Counsel
23 at PO Box 424 Placitas, NM 87043 by Certified/first class mail,
24 postage prepaid on the 25th day of April, 2013


Clerk/Counsel to the Disciplinary Board