

FILED
OCT 28 2016
DISCIPLINARY
BOARD

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re
ARTIS C. GRANT JR,

Lawyer (WSBA No. 26204)

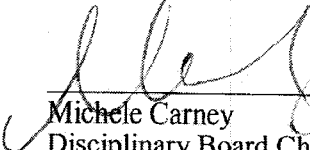
Proceeding No. 16#00038

DISCIPLINARY BOARD ORDER
DECLINING *SUA SPONTE* REVIEW AND
ADOPTING HEARING OFFICER'S
DECISION


This matter came before the Disciplinary Board for consideration of *sua sponte* review pursuant to ELC 11.3(a). On October 20, 2016, the Clerk distributed the attached decision to the Board.

IT IS HEREBY ORDERED THAT the Board declines *sua sponte* review and adopts the Hearing Officer's decision¹.

Dated this 28th day of October, 2016.


Michele Carney
Disciplinary Board Chair
CERTIFICATE OF SERVICE

I certify that I caused a copy of the ~~order~~ **Order Declining Sua Sponte Review** to be delivered to the Office of Disciplinary Counsel and to be mailed to ~~Artis Grant~~ **Artis Grant**, Respondent/Respondent's Counsel at ~~3012 S. 4th St. Tacoma, WA 98402~~ **3012 S. 4th St. Tacoma, WA 98402** by Certified ~~first class mail~~ **first class mail**, postage prepaid on the ~~28~~ **28** day of ~~Oct~~ **Oct**, ~~2016~~ **2016**.


Clerk of the Disciplinary Board

¹ The vote on this matter was 12-0. The following Board members voted: Carney, Silverman, Denton, Louvier, Andeen, Startzel, Byerly, Smith, Graber, Cottrell, Myers, Cornelius.

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AUG 16 2016
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In re
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Lawyer (Bar No. 26204).

Proceeding No. 16#00038
FINDINGS OF FACT, CONCLUSIONS OF
LAW AND HEARING OFFICER'S
RECOMMENDATION

The undersigned Hearing Officer held a default hearing on August 16, 2016 under Rule 10.6 of the Rules for Enforcement of Lawyer Conduct (ELC).

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

1. The Formal Complaint (Bar File No.3) charged Artis C. Grant Jr. with misconduct as set forth therein. A copy of the Formal Complaint is attached to this decision.
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.
3. Under ELC 10.6(a)(4), the Hearing Officer concludes that each of the violations charged in the Bar File No. 3 is admitted and established as follows:

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COUNT 1

4. By filing a lien in Federal Court for fees to which he was not entitled, Respondent violated RPC 1.5(a), RPC 1.5(e)(1), RPC 3.2, and RPC 8.4(d).

COUNT 2

5. By making false statements in his affidavit filed with the Court of Appeals, Respondent violated RPC 3.3(a)(1) and RPC 8.4(c).

COUNT 3

6. By charging Ms. Tisby an unreasonable fee, Respondent violated RPC 1.5(a).

COUNT 4

7. By providing Ms. Tisby with confusing and contradictory information about the fee she owed, Respondent violated RPC 1.5(b).

COUNT 5

8. By failing to keep a record of the initial \$1,500 cash payment (an advance fee) from Ms. Tisby in a client ledger, and failing to promptly deposit the unearned portion in trust, Respondent violated RPC 1.15A(c) and RPC 1.15B(a).

COUNT 6

9. By withdrawing earned fees in September 2014, prior to giving Ms. Tisby reasonable notice, through a billing statement or other document, Respondent violated RPC 1.15A(h)(3).

COUNT 7

10. By testifying that he had received a total of \$6,500 from Ms. Tisby, when his own records showed that he had received \$8,000, Respondent violated RPC 8.4(c) and RPC 3.3(a).

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

11. The following standards of the American Bar Association's Standards for

1 | Imposing Lawyer Sanctions (“ABA Standards”) (1991 ed. & Feb. 1992 Supp.) presumptively
2 | apply in this case:

3 | 12. Count 1- ABA Standard 7.0 is most applicable to cases involving unreasonable or
4 | improper fees (violations of RPC 1.5(a)). ABA Standard 6.2 is most applicable to cases
5 | involving a lawyer’s failure to expedite litigation (violations of RPC 3.2). ABA Standard 6.1 is
6 | most applicable to cases involving conduct that is prejudicial to the administration of justice
7 | (violations of RPC 8.4(d)).

8 | 13. Count 2- ABA Standard 6.1 is most applicable to cases involving conduct that
9 | involves dishonesty, fraud, deceit, or misrepresentation to a court (violations of RPC 3.3 and
10 | RPC 4.1). ABA Standard 5.1 is most applicable to cases involving conduct involving
11 | dishonesty, fraud, deceit, or misrepresentation (violations of RPC 8.4(c)).

12 | 14. Counts 3, 4, and 5- ABA Standard 4.1 is most applicable to cases where a lawyer
13 | knows or should know that he is dealing improperly with client property (violations of RPC
14 | 1.15A and 1.15B).

15 | 15. Count 6- ABA Standard 7.0 is most applicable to cases involving unreasonable or
16 | improper fees (violations of RPC 1.5(a)).

17 | 16. Count 7- ABA Standard 6.1 is most applicable to cases involving conduct that
18 | involves dishonesty, fraud, deceit, or misrepresentation to a court and cases involving conduct
19 | that is prejudicial to the administration of justice (violations of RPC 3.3 and RPC 8.4(d)). ABA
20 | Standard 5.1 is most applicable to cases involving conduct involving dishonesty, fraud, deceit,
21 | or misrepresentation (violations of RPC 8.4(c)).

22 | 17. Respondent acted intentionally and knowingly in taking the actions charged in the
23 | Formal Complaint.

24 |

1 18. Respondent caused injury to J.G. by delaying settlement of the federal case.
2 Among other things, J.G. was anxious and frustrated because the settlement was for money he
3 needed to attend college. Respondent caused injury to Ms. Koehler. Among other things, she
4 did about 30 additional hours of work, for which she did not charge her client, relating to
5 removing the lien Respondent asserted. Respondent caused injury to the profession when he
6 filed a false affidavit with the court.

7 19. Respondent also caused injury to Ms. Tisby, her legal proceeding, and the legal
8 system.

9 20. Suspension is the presumptive sanction for every violation listed above, with the
10 exception of violations of RPC 8.4(c), where the presumptive sanction is reprimand.

11 21. Because there were multiple acts of misconduct, under In re Petersen, 120 Wn2d
12 833, 854 (1993), the lower sanctions standard are generally merged into the highest sanction
13 standard. The presumptive sanction is suspension.

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

- 16 (a) prior disciplinary offenses [On July 16, 2015, Respondent was suspended
17 for one year by order of the Supreme Court. Respondent stipulated that
18 he had violated RPC 1.15A, RPC 1.15B, RPC 1.3, and RPC 1.5.]
19 (b) dishonest or selfish motive;
20 (c) a pattern of misconduct;
21 (d) multiple offenses;
22 (i) substantial experience in the practice of law [Respondent was admitted to
23 practice in Washington in 1996. Respondent was admitted to practice in
24 California in 1974].

21 23. ABA Standard 9.22(a) applies because Respondent's prior misconduct (though not
22 the sanction for such conduct), preceded the misconduct in this matter. As of June 2011,
23 Respondent was under investigation by ODC relating to his trust account records and handling
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1 of client funds, and he committed similar misconduct (Counts 3-5) in 2014. In re Disciplinary
2 Proceeding Against Lopez, 153 Wn.2d 570, 594, 106 P.3d 221 (2005).

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

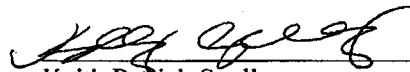
5 25. No mitigating factors set forth in Section 9.32 of the ABA Standards apply to this
6 case.

7 26. Considering the aggravating factors, the presumptive sanction of suspension
8 should be increased to disbarment.

9 **RECOMMENDATION**

10 27. Based on the ABA Standards and the applicable aggravating and mitigating
11 factors, the Hearing Officer recommends that Respondent Artis C. Grant Jr. be disbarred.

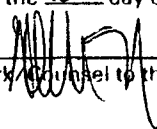
12 DATED this 16th day of August, 2016.

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15 Keith Patrick Scully,
16 Hearing Officer

17 **CERTIFICATE OF SERVICE**

18 I certify that I caused a copy of the FOF, COL & HO'S RECOMMENDATION
19 to be delivered to the Office of Disciplinary Counsel and to be mailed
20 to ARTIS C. GRANT JR. Respondent/ Respondent's Counsel
21 at 3022 S. 17th St. Tacoma, WA 98409 by Certified First class mail
22 postage prepaid on the 16th day of AUGUST, 2016

23
24 
Clerk/ Counsel to the Disciplinary Board

APR 27 2016

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

ARTIS C. GRANT JR,
Lawyer (Bar No. 26204).

Proceeding No. 16#00038

FORMAL COMPLAINT

Under Rule 10.3 of the Rules for Enforcement of Lawyer Conduct (ELC), the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association charges the above-named lawyer with acts of misconduct under the Rules of Professional Conduct (RPC) as set forth below.

ADMISSION TO PRACTICE

1. Respondent Artis C. Grant Jr. was admitted to the practice of law in the State of Washington on November 15, 1996.

FACTS REGARDING COUNTS 1 and 2

2. In January 2010 Maria Sanchez engaged lawyer Kerri Feeney to represent her interests and those of her minor son J.G. in a special education due process hearing.

1 3. In March 2010 Respondent began working with Ms. Feeney. His role was to
2 provide periodic assistance to Ms. Feeney during the administrative proceeding related to J.G.'s
3 case against the Grandview School District #200 (the District).

4 4. Respondent later worked with Ms. Feeney on an appeal from the administrative
5 proceedings to the Yakima County Superior Court, and then to the Court of Appeals.

6 5. Meanwhile, in December 2010, Ms. Feeney filed a complaint against the District
7 (the federal case) in the U.S. District Court for the Eastern District of Washington.

8 6. On June 6, 2011, J.G. and his mother entered into a written contingency fee
9 agreement with lawyer Karen Koehler of the law firm Stritmatter Kessler for representation in
10 the federal case against the District.

11 7. Respondent was not named in this written fee agreement.

12 8. In March 2012, Ms. Koehler and Paul Stritmatter filed an amended complaint
13 against the District in the federal case relating to new claims of discrimination, harassment, and
14 civil rights violations.

15 9. Ms. Feeney never delegated any work in the federal case to Respondent.

16 10. Respondent performed no work in the federal case; he did not write any
17 memoranda or briefs, perform any legal research, or take any depositions.

18 11. Respondent was not entitled to fees for work in the federal case.

19 The Improper Lien

20 12. On April 1, 2015, Respondent filed a Notice of Lien for Attorney's Fees in the
21 federal case "for a portion of any attorneys fees awarded, agreed to or otherwise paid."

22 13. The District was in the process of funding a settlement with J.G. when Respondent
23 filed the lien.

- 1 14. Because of Respondent's lien, the settlement was halted.
- 2 15. Ms. Koehler and Ms. Feehey asked Respondent to remove the lien.
- 3 16. Respondent refused to do so.
- 4 17. On April 7, 2015, Ms. Koehler filed a motion to dismiss the lien.
- 5 18. Respondent did not file a response.
- 6 19. On April 23, 2015, the federal court dismissed Respondent's lien, finding it
- 7 "inappropriate and impermissible."
- 8 20. On April 30, 2015, Respondent filed a Motion to Request Reconsideration of
- 9 Order on Motion to Dismiss.
- 10 21. On June 11, 2015, the federal court issued an Order Granting Motion to Dismiss
- 11 Lien and Dismissing Attorney's Lien. The federal court found that Respondent did not have a
- 12 written or implied contract with J.G., and was not entitled to fees under a quantum meruit theory
- 13 because he did not perform any material work on the federal case.
- 14 22. The federal court dismissed Respondent's lien, noting that it was arguably an effort
- 15 to gain leverage because of the temporal sensitivity of the settlement.

16 Respondent's Disciplinary Proceedings

17 23. On February 3, 2015, Respondent signed a stipulation to a one year suspension in

18 ODC proceeding No. 13#00018. Respondent stipulated that he had violated RPC 1.3, 1.5,

19 1.15A, and 1.15B. This action was unrelated to Respondent's representation of J.G.

20 24. On July 16, 2015, Respondent was suspended from the practice of law for one year

21 by order of the Supreme Court.

22 The False Affidavit

23 25. In April 2014, the District appealed the Yakima County Superior Court award of

1 fees to Respondent and Ms. Feeney relating to their representation of J.G. in the administrative
2 proceedings.

3 26. The administrative proceeding appeal was still pending at the Court of Appeals
4 when Respondent's disciplinary suspension began.

5 27. On September 10, 2015, Respondent filed an Affidavit of Artis C. Grant, Jr. in
6 Support of Fees and Expenses for Defending Appeal of Superior Court Award of Attorney Fees
7 and Costs (affidavit), signed under penalty of perjury, with the Court of Appeals.

8 28. He wrote that, "Due to health reasons, I am currently retired..."

9 29. This was a misleading statement. Respondent did not inform the court that he was
10 suspended from the practice of law.

11 30. Respondent claimed a false amount of attorney fees and costs.

12 31. Respondent asked the Court of Appeals to award him \$10,765 in fees.

13 32. Respondent wrote that he had arranged with David Corbett, an appellate lawyer, to
14 assist in handling the appeal filed by the District. He wrote, "I paid for David Corbett's fees for
15 services from May 2014 through December 2014 in total of \$10,224.00. See attached copies of
16 cashier's checks."

17 33. Respondent failed to attach copies of checks.

18 34. In Exhibit E. attached to his affidavit, Respondent listed three payments to Mr.
19 Corbett totaling \$10,215. This included a payment of \$4,845 on December 31, 2014.

20 35. Respondent did not make a payment of \$4,845 or any other payment to Mr.
21 Corbett in December 2014.

22 36. Respondent actually paid Mr. Corbett a total of \$8,775.

23 37. Respondent caused injury to J.G. by delaying settlement of the federal case.

1 Among other things, J.G. was anxious and frustrated because the settlement was for money he
2 needed to attend college.

3 38. Respondent caused injury to Ms. Koehler. Among other things, she did about 30
4 additional hours of work, for which she did not charge her client, relating to removing the lien
5 Respondent asserted.

6 39. Respondent caused injury to the profession when he filed a false affidavit with the
7 court.

8 40. Respondent acted intentionally in taking the actions described above.

9 **COUNT 1**

10 41. By filing a lien in the federal case for fees to which he was not entitled,
11 Respondent violated RPC 1.5(a), RPC 3.2, and/or RPC 8.4(d).

12 **COUNT 2**

13 42. By making one or more false statements in his affidavit filed in the Court of
14 Appeals, Respondent violated RPC 3.3(a)(1), 3.3(a)(4), 4.1(a), and/or RPC 8.4(c).

15 **FACTS REGARDING COUNTS 3-7**

16 43. In July 2014, Stephanie Tisby's ex-husband, John Tisby, died without a will. Mr.
17 Tisby was survived by his minor daughter with Ms. Tisby and his son from a prior relationship,
18 Quinn Birch.

19 44. On August 18, 2014, Ms. Tisby met with Respondent regarding representation in
20 the probate matter.

21 45. Ms. Tisby paid Respondent \$1,500 cash and received a receipt indicating that \$500
22 was for "Consultation Estate" and \$1,000 was for "Research/Recommendation."

23 46. Ms. Tisby signed two fee agreements dated August 18, 2014. The first, entitled

1 "Probate consultation," described the \$500 as a "non-refundable consultation fee."

2 47. The second, entitled "LEGAL SERVICES AGREEMENT," states in part:

3 **DEPOSIT.** Client shall pay a non-refundable retainer of \$1,500.00

4 48. Despite the language of the fee agreement, some of the cash payment that
5 Respondent received from Ms. Tisby on August 18, 2014 was an advance fee.

6 49. Respondent failed to deposit any of the \$1,500 cash payment in a trust account.

7 50. Respondent failed to record the \$1,500 cash payment on a client ledger.

8 51. Respondent did not earn the entire \$1,500 until at least August 25, 2014.

9 52. On September 23, 2014, Respondent deposited \$4,000 from Ms. Tisby into his
10 trust account. This was the only deposit recorded on Ms. Tisby's client ledger.

11 53. As of September 26, 2014, all of Ms. Tisby's funds had been removed from trust.

12 54. Respondent withdrew Ms. Tisby's funds from trust without giving her notice,
13 through a billing statement or other document, of his intent to do so.

14 55. On September 26, 2014, Respondent filed a petition in the Pierce County Superior
15 Court requesting that Ms. Tisby be appointed the Personal Representative (PR) of Mr. Tisby's
16 estate.

17 56. On October 14, 2014, Ms. Tisby paid Respondent an additional \$1,000.

18 57. Quinn Birch and Mr. Tisby's mother moved the probate court to remove Ms. Tisby
19 as PR. At a hearing on November 7, 2014, the court appointed a third party as the PR. The
20 court entered an order directing in part that there would be a "Stay on all actions of eviction and
21 other estate matters to maintain the status quo."

22 58. Respondent was present at the hearing and had knowledge of the court's order.

23 59. Nevertheless, Respondent charged Ms. Tisby \$525 for time purportedly spent on

1 November 10, 2014 preparing eviction papers to remove Quinn Birch from the decedent's
2 property.

3 60. These and other fees that Respondent charged were unreasonable.

4 61. On November 12, 2014, Ms. Tisby paid Respondent an additional \$1,500.

5 62. On November 20, 2014, Ms. Tisby terminated Respondent's representation.

6 63. On December 4, 2014, Respondent sent Ms. Tisby an invoice claiming that she
7 still owed \$6,160.21 in fees.

8 64. On December 10, 2014, Respondent filed a Notice of Small Claim in Pierce
9 County District Court, seeking \$5,000 from Ms. Tisby for unpaid fees for legal services.

10 65. At a trial on May 11, 2015, Respondent testified under oath that his office received
11 a total of \$6,500 from Ms. Tisby: \$1,500 on August 18, 2014, \$4,000 on September 23, 2014,
12 and \$1,000 on October 14, 2015.

13 66. Respondent testified that the amount was correct and those were the only payments
14 "we have a record of."

15 67. Respondent's statements were false.

16 68. Respondent's own records show that he received Check #1001 from Ms. Tisby, for
17 \$1,500 dated November 12, 2014.

18 69. Ms. Tisby paid Respondent a total of \$8,000.

19 70. On June 15, 2015, the court issued a decision to the parties via letter. Relying on
20 Respondent's false statements, the court erroneously found that Ms. Tisby had paid Respondent
21 only \$6,500, and that her last payment had been on October 14, 2014. The court further found
22 that some of the fees Respondent charged were unreasonable under RPC 1.5(a). The court
23 deducted these unreasonable fees from the total amount that Respondent claimed, and awarded

1 Respondent a judgment in the amount of \$4,010.21.

2 71. In committing the violations alleged below in Counts 3-7, Respondent acted
3 knowingly.

4 72. In committing the violations alleged below in Counts 3-7, Respondent caused
5 injury to a client, a party, a legal proceeding, and/or the legal system.

6 **COUNT 3**

7 73. By failing to deposit and hold client funds in a trust account, Respondent violated
8 RPC 1.15A(c).

9 **COUNT 4**

10 74. By failing to record the \$1,500 cash payment on a client ledger, Respondent
11 violated RPC 1.15A(h)(2) and/or 1.15B(a).

12 **COUNT 5**

13 75. By withdrawing client funds from trust before giving reasonable notice to the
14 client, through a billing statement or other document, Respondent violated RPC 1.15A(h)(3).

15 **COUNT 6**

16 76. By charging unreasonable fees, Respondent violated RPC 1.5(a).

17 **COUNT 7**


18 77. By knowingly making one or more false statements to the court, and/or by offering
19 evidence that he knew to be false, Respondent violated RPC 3.3(a) and/or 8.4(c) and/or RPC
20 8.4(d).

21
22 THEREFORE. Disciplinary Counsel requests that a hearing be held under the Rules for
23 Enforcement of Lawyer Conduct. Possible dispositions include disciplinary action, probation,

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restitution, and assessment of the costs and expenses of these proceedings.

Dated this 27 day of April, 2016.


Erica Temple, Bar No. 28458
Disciplinary Counsel