

FILED  
SEP 16 2013  
DISCIPLINARY BOARD

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

**BRIAN K. BODDY,**  
Lawyer (Bar No. 26735).

Proceeding No. 17#00088  
WSBA File No. 13-00313

AFFIDAVIT OF BRIAN K. BODDY  
RESIGNING FROM MEMBERSHIP IN  
WASHINGTON STATE BAR  
ASSOCIATION (ELC 9.3(b))

Brian K. Boddy, being duly sworn, hereby attests to the following:

1. I am over the age of eighteen years and am competent. I make the statements in this affidavit from personal knowledge.
2. I was admitted to practice law in the State of Washington on May 21, 1997.
3. In February 2013, I was provided a copy of a grievance filed against me by Michael and Tsuchino Forrester, WSBA File No. 13-00313. I have reviewed that grievance.
4. After consultation with my counsel, Anne I. Seidel, I have voluntarily decided to resign from the Washington State Bar Association (the Association) in Lieu of Disbarment under Rule for Enforcement of Lawyer Conduct (ELC) 9.3.
5. Attached hereto as Exhibit A is Disciplinary Counsel's statement of alleged

1 misconduct for purposes of ELC 9.3(b). While not admitting the misconduct in the Attached  
2 Statement of Misconduct, attached hereto as Exhibit A, I admit that the Association could  
3 prove, by a clear preponderance of the evidence, the violations set forth in Exhibit A, and that  
4 proof of such violations would suffice to result in my disbarment.

5 6. I acknowledge that I have an obligation to pay \$1,000.00 to the Washington State  
6 Bar Association as expenses but am currently unable to do so. In accordance with ELC  
7 9.3(f)(A), I am submitting with this affidavit an executed confession of judgment in the amount  
8 of \$1,000.00.

9 7. I agree to pay restitution of \$20,000 to Tsuchino Forrester.

10 8. I agree to pay any restitution or costs that may be ordered by a Review Committee  
11 under ELC 9.3(g).

12 9. I understand that my resignation is permanent and that any future application by  
13 me for reinstatement as a member of the Association is currently barred. If the Supreme Court  
14 changes this rule or an application is otherwise permitted in the future, it will be treated as an  
15 application by one who has been disbarred for ethical misconduct, and that, if I file an  
16 application, I will not be entitled to a reconsideration or reexamination of the facts, complaints,  
17 allegations, or instances of alleged misconduct on which this resignation was based.

18 10. I agree to (a) notify all other states and jurisdictions in which I am admitted of this  
19 resignation in lieu of disbarment; (b) seek to resign permanently from the practice of law in all  
20 states and other jurisdictions in which I am admitted; and (c) provide disciplinary counsel with  
21 copies of this notification and any response(s).

22 11. I agree to (a) notify all other professional licensing agencies in any jurisdiction  
23 from which I have a professional license that is predicated on my admission to practice law of  
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1 this resignation in lieu of disbarment; (b) seek to resign permanently from any such license; and  
2 (c) provide disciplinary counsel with copies of any of these notifications and any responses.

3 12. I agree that when applying for any employment, I will disclose the resignation in  
4 lieu of disbarment in response to any question regarding disciplinary action or the status of my  
5 license to practice law.

6 13. I understand that my resignation becomes effective on disciplinary counsel's filing  
7 of this document with the clerk, and that under ELC 9.3(c) disciplinary counsel must do so  
8 promptly on receipt.

9 14. When my resignation becomes effective, I agree to be subject to all restrictions that  
10 apply to a disbarred lawyer.

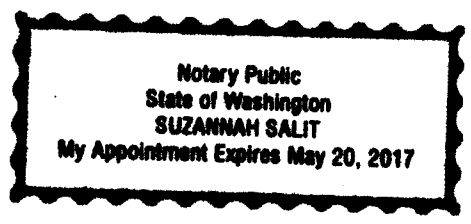
11 15. Upon filing of my resignation, I agree to comply with the same duties as a  
12 disbarred lawyer under ELC 14.1 through ELC 14.4.

13 16. I understand that after my resignation becomes effective, it is permanent. I will  
14 never be eligible to apply and will not be considered for admission or reinstatement to the  
15 practice of law nor will I be eligible for admission for any limited practice of law.

16 17. I certify under penalty of perjury under the laws of the State of Washington that  
17 the foregoing is true and correct.

18 9/12/13, Redmond, WA [Signature]  
19 Date and Place Brian K. Boddy, Bar No. 26735

20 SUBSCRIBED AND SWORN to before me this 12 day of September, 2013.



21 [Signature]  
22 NOTARY PUBLIC for the state of  
23 Washington, residing at Redmond  
24 My commission expires: 5-20-2017

# EXHIBIT A

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7 BEFORE THE  
8 DISCIPLINARY BOARD  
9 OF THE  
10 WASHINGTON STATE BAR ASSOCIATION

11 In re

12 **BRIAN K. BODDY,**  
13 Lawyer (Bar No. 26735).

Proceeding No. \_\_\_\_\_  
WSBA File No. 13-00313

STATEMENT OF ALLEGED  
MISCONDUCT UNDER ELC 9.3(b)(1)

14 The following constitutes a Statement of Alleged Misconduct under Rule 9.3(b)(1) of  
15 the Rules for Enforcement of Lawyer Conduct (ELC).

16 **I. ADMISSION TO PRACTICE**

17 1. Respondent Brian K. Boddy was admitted to the practice of law in the State of  
18 Washington on May 21, 1997.

19 **II. ALLEGED FACTS**

20 2. On Thanksgiving Day 2009, Tsuchino Forrester slipped and fell at a restaurant,  
21 seriously injuring her leg.

22 3. In December 2009, Ms. Forrester and her husband, Michael Forrester, hired  
23 Respondent to represent them in a personal injury action against the restaurant.  
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1 4. In February 2011, the restaurant's insurer issued a \$20,000 check made out to  
2 Tsuchino Forrester, c/o Boddy Law Firm, for policy limits for no fault medical payments  
3 coverage.

4 5. Respondent did not tell the Forresters that he received the check and they knew  
5 nothing about it.

6 6. Instead, Respondent endorsed the \$20,000 check and deposited it into his personal  
7 money market account.

8 7. In June 2012, the personal injury action settled for \$60,000.

9 8. The Forresters asked Respondent to set aside \$6,000 from the settlement proceeds  
10 to reimburse Ms. Forester's insurer.

11 9. Respondent initially deposited the \$6,000 into his trust account, but, in August  
12 2012, transferred the \$6,000 into his general account without notice to the Forresters.

13 10. Months later, Ms. Forrester's insurer contacted the Forresters about repayment of  
14 medical expenses.

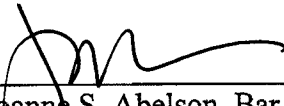
15 11. Respondent made false statements to the Forresters about the existence of the  
16 \$20,000 no fault medical payment and the whereabouts of the \$6,000 in settlement proceeds  
17 that they had asked him to set aside.

18 12. Respondent refunded the \$6,000 to the Forresters in April 2013, after they filed the  
19 grievance.

### 20 III. ALLEGED MISCONDUCT.

21 13. By taking the \$20,000 no fault medical payment and the \$6,000 in settlement  
22 proceeds for his own use without entitlement or client authorization, Respondent violated RPC  
23 1.15A and RPC 8.4(c).

1 DATED this 16<sup>th</sup> day of September, 2013.

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5 Joanne S. Abelson, Bar No. 24877  
6 Senior Disciplinary Counsel  
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