

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

**MATTHEW W. BUTLER,**  
Lawyer (Bar No. 27993).

Proceeding No. 16#00071  
ODC File No. 14-00261

STIPULATION TO SIX-MONTH  
SUSPENSION

Under Rule 9.1 of the Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to Six-Month Suspension is entered into by the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through Managing Disciplinary Counsel Joanne S. Abelson and Respondent lawyer Matthew W. Butler.

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

013

1 proceeding now by entering into the following stipulation to facts, misconduct and sanction to  
2 avoid the risk, time, expense attendant to further proceedings.

### 3 I. ADMISSION TO PRACTICE

4 1. Respondent was admitted to practice law in the State of Washington on June 22,  
5 1998.

6 2. Respondent was suspended from the practice of law on July 23, 2013, for six  
7 months, effective July 30, 2013. He remains suspended at this time.

### 8 II. STIPULATED FACTS

9 3. Respondent was on a list of lawyers appointed by Clark County Indigent Defense to  
10 represent children in abuse, neglect, and dependency cases. As of 2013 he was no longer taking  
11 new cases but had a few outstanding matters.

12 4. On July 23, 2013, the Supreme Court entered an order suspending Respondent from  
13 the practice of law for six months, effective July 30, 2013.

14 5. Respondent received notice of his suspension from the practice of law.

15 6. After he was suspended from the practice of law, Respondent continued to work on  
16 cases for Clark County Indigent Defense.

17 7. On September 1, 2013, Respondent submitted an invoice to the agency for client BK  
18 that included billings for 4.21 hours between July 31, 2013 and August 28, 2013.

19 8. On September 6, 2013, Respondent submitted an invoice to the agency for client  
20 DJM that included billings for 5.36 hours between August 6, 2013 and September 6, 2013.

21 9. On September 26, 2013, unaware of Respondent's suspension, Clark County  
22 Indigent Defense paid the invoices in full at a rate of \$75 per hour.



1 negligently represented his client in a family law matter, and knowingly removed funds from  
2 trust without providing notice to his client, failed to provide an accounting, commingled funds,  
3 and failed to cooperate with a disciplinary investigation.

#### 4 V. APPLICATION OF ABA STANDARDS

5 19. The following American Bar Association Standards for Imposing Lawyer Sanctions  
6 (1991 ed. & Feb. 1992 Supp.) apply to this case:

##### 7 ABA Standard 7.0 -- Violations of Duties Owed as a Professional

8 Absent aggravating or mitigating circumstances, upon application of the factors  
9 set out in Standard 3.0, the following sanctions are generally appropriate in cases  
10 involving false or misleading communication about the lawyer or the lawyer's  
11 services, improper communication of fields of practice, improper solicitation of  
professional employment from a prospective client, unreasonable or improper  
fees, unauthorized practice of law, improper withdrawal from representation, or  
failure to report professional misconduct.

12 7.1 Disbarment is generally appropriate when a lawyer knowingly engages in  
13 conduct that is a violation of a duty owed as a professional with the intent to  
14 obtain a benefit for the lawyer or another, and causes serious or potentially serious  
injury to a client, the public, or the legal system.

15 7.2 Suspension is generally appropriate when a lawyer knowingly engages in  
16 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.

17 7.3 Reprimand is generally appropriate when a lawyer negligently engages in  
18 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.

19 7.4 Admonition is generally appropriate when a lawyer engages in an isolated  
20 instance of negligence that is a violation of a duty owed as a professional, and  
causes little or no actual or potential injury to a client, the public, or the legal  
system.

21 20. Respondent acted knowingly.

22 21. Clark County Indigent Defense suffered actual injury because it paid for services  
23

1 performed by a lawyer who was not authorized to practice. Respondent's clients and the legal  
2 system suffered potential injury because the clients were represented by a suspended lawyer,  
3 whose actions could be called into question.

4 22. The presumptive sanction for the misconduct in ¶¶ 16-17 is suspension under ABA  
5 Standard 7.2.

6 23. The following aggravating factors apply under ABA Standard 9.22:

- 7 (a) prior disciplinary offenses [see ¶ 18];  
8 (i) substantial experience in the practice of law [admitted 1998].

9 24. The following mitigating factor applies under ABA Standard 9.32:

- 10 (c) personal or emotional problems (Respondent suffered from undiagnosed  
11 mental health issues during times relevant to this stipulation).<sup>1</sup>

12 25. It is an additional mitigating factor that Respondent has agreed to resolve this matter  
13 at an early stage of the proceedings.

14 26. Respondent states that although he has been eligible to reinstate to the active practice  
15 of law since January 2014, he has remained suspended since that time because he has lacked the  
16 funds to pay the costs associated with reinstatement.

## 17 VI. STIPULATED DISCIPLINE

18 27. The parties stipulate that Respondent shall receive a six-month suspension.

19 28. Respondent shall be subject to probation for a period of two years after the date he is  
20 reinstated to the practice of law.

21 29. The conditions of probation are set forth below. Respondent's compliance with these  
22 conditions shall be monitored by the Probation Administrator of the Office of Disciplinary

23 <sup>1</sup> Insufficient evidence exists to meet the requirements of ABA Standard 9.32(i).

1 Counsel ("Probation Administrator"). Failure to comply with a condition of probation listed  
2 herein may be grounds for further disciplinary action under ELC 13.8(b).

3 30. During the period of probation, Respondent shall report to the Probation  
4 Administrator on a monthly basis as to whether he has resumed a practice that involves client  
5 work. If and when Respondent resumes a practice that involves client work, Respondent's  
6 practice shall be supervised by a practice monitor for a period of one year.

7 31. The practice monitor must be a WSBA member with no record of public discipline  
8 and who is not the subject of a pending public disciplinary proceeding.

9 32. The practice monitor shall consult with and provide guidance to Respondent  
10 regarding case management, office management, and avoiding violations of the Rules of  
11 Professional Conduct. While appointed as practice monitor during the probation period, the  
12 practice monitor does not represent the Respondent.

13 33. No later than 15 days after Respondent resumes a practice that involves client work,  
14 Respondent may provide to the Probation Administrator, in writing, the name and contact  
15 information of a proposed practice monitor. The Probation Administrator may or may not  
16 approve the proposed practice monitor. If Respondent fails to propose a practice monitor within  
17 15 days, or if the Probation Administrator does not approve the proposed practice monitor, the  
18 Probation Administrator will propose to Respondent a practice monitor. If Respondent objects  
19 to the Probation Administrator's proposal, ODC will submit a request that a practice monitor be  
20 appointed by the Chair of the Disciplinary Board. See ELC 13.8(a)(2). Respondent shall  
21 cooperate with the practice monitor agreed to by ODC and Respondent or appointed by the  
22 Chair of the Disciplinary Board.

1 34. During the period that Respondent is supervised by a practice monitor, he shall meet  
2 with the practice monitor at least once per month. At each meeting, the practice monitor will  
3 discuss with Respondent each of Respondent's client matters, the status of each client matter,  
4 Respondent's communication with each client, upcoming deadlines, and Respondent's intended  
5 course of action. Meetings may be in person or by telephone at the practice monitor's  
6 discretion.

7 35. The practice monitor will provide the Probation Administrator with quarterly reports  
8 regarding Respondent's performance on probation. Each report must include the date of each  
9 meeting with Respondent, a brief synopsis of the discussion topics, and a brief description of  
10 any concerns the practice monitor has regarding the Respondent's compliance with the RPC.  
11 The report must be signed by the practice monitor. Each report is due within 30 days of the  
12 completion of the quarter.

13 36. If the practice monitor believes that Respondent is not complying with any of his  
14 ethical duties under the RPC or if Respondent fails to attend a monthly meeting, the practice  
15 monitor shall promptly report that to the Probation Administrator.

16 37. Respondent shall be responsible for paying any and all fees, costs and/or expenses  
17 charged by the practice monitor for supervision.

## 18 VII. RESTITUTION

19 38. Respondent shall pay restitution of \$717.75 to Clark County Indigent Defense, plus  
20 interest at the maximum rate permitted under RCW 19.52.020 since September 2013.

21 39. Restitution is due within 30 days of final approval of this stipulation unless  
22 Respondent has entered into a periodic payment plan.

1 40. Reinstatement from suspension is conditioned on full payment of restitution or full  
2 compliance with a periodic payment plan.

3 **VIII. COSTS AND EXPENSES**

4 41. The parties have agreed that no costs or expenses are required under this Stipulation.

5 **IX. VOLUNTARY AGREEMENT**

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

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

13 **X. LIMITATIONS**

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

19 45. This Stipulation is not binding upon ODC or the respondent as a statement of all  
20 existing facts relating to the professional conduct of the respondent lawyer, and any additional  
21 existing facts may be proven in any subsequent disciplinary proceedings.

22 46. This Stipulation results from the consideration of various factors by both parties,  
23



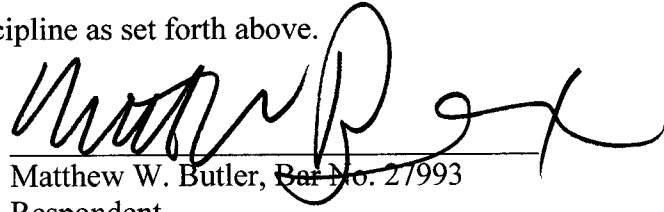
1 including the benefits to both by promptly resolving this matter without the time and expense of  
2 hearings, Disciplinary Board appeals, and Supreme Court appeals or petitions for review. As  
3 such, approval of this Stipulation will not constitute precedent in determining the appropriate  
4 sanction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

7 47. Under Disciplinary Board policy, in addition to the Stipulation, the Disciplinary  
8 Board shall have available to it for consideration all documents that the parties agree to submit  
9 to the Disciplinary Board, and all public documents. Under ELC 3.1(b), all documents that  
10 form the record before the Board for its review become public information on approval of the  
11 Stipulation by the Board, unless disclosure is restricted by order or rule of law.

12 48. If this Stipulation is approved by the Disciplinary Board and Supreme Court, it will  
13 be followed by the disciplinary action agreed to in this Stipulation. All notices required in the  
14 Rules for Enforcement of Lawyer Conduct will be made.

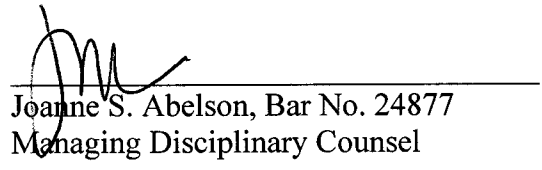
15 49. If this Stipulation is not approved by the Disciplinary Board and Supreme Court, this  
16 Stipulation will have no force or effect, and neither it nor the fact of its execution will be  
17 admissible as evidence in the pending disciplinary proceeding, in any subsequent disciplinary  
18 proceeding,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

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

3 

Dated: 11/30/16

4 Matthew W. Butler, Bar No. 27993  
5 Respondent

6   
7 Joanne S. Abelson, Bar No. 24877  
8 Managing Disciplinary Counsel

Dated: 12/2/16