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**FILED**  
SEP 24 2015  
DISCIPLINARY  
BOARD

**FILED**  
SEP 24 2015  
DISCIPLINARY  
BOARD

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

**ROBERT E. CARUSO,**

Lawyer (Bar No. 29338).

Proceeding No. 14#00006

STIPULATION TO ADMONITION

Under Rule 9.1 of the Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to admonition is entered into by the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through disciplinary counsel Debra Slater and Respondent lawyer Robert E. Caruso.

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 4<sup>th</sup> Avenue, Suite 600  
Seattle, WA 98101-2539  
(206) 727-8207

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1 | avoid the time and expense attendant to further proceedings.

2 | **I. ADMISSION TO PRACTICE**

3 | 1. Respondent was admitted to practice law in the State of Washington on October 25,  
4 | 1999.

5 | **II. STIPULATED FACTS**

6 | 1. Ana Ortiz hired Respondent to represent her in two personal injury cases arising  
7 | from separate automobile collisions; one involving James Hajek and a second involving Asli  
8 | Mohamed. Ortiz's daughter was a passenger in the vehicle that was involved in the Hajek  
9 | collision.

10 | 2. Respondent, who was having health issues, assigned the case to the junior partner in  
11 | the firm, Matthew Pfefer.

12 | 3. On February 10, 2009, a few days before the statute of limitations would run, Pfefer  
13 | filed a complaint in the Hajek case on behalf of Ortiz and her daughter in King County  
14 | Superior Court. On October 28, 2010, Pfefer filed a complaint in King County Superior Court  
15 | in the Mohamed case.

16 | 4. On May 5, 2011, Respondent concluded that Pfefer had a conflict of interest in both  
17 | cases. Respondent ordered Pfefer to file Notices of Withdrawal in both cases, "effective  
18 | immediately." On May 5, 2011, Pfefer filed the Notices of Withdrawal as ordered.  
19 | Respondent did not take steps to protect Ortiz's interest.

20 | 5. The Notices of Withdrawal did not comply with CR 71, which requires that the date  
21 | of the withdrawal be at least 10 days after service of the Notice of Withdrawal.

22 | **III. STIPULATION TO MISCONDUCT**

23 | 6. Respondent violated RPC 5.1(c) (responsibilities of partners and supervisory

1 lawyers) by ordering Pfefer to withdraw from Ortiz's case without giving 10 days notice as  
2 required by CR 71 and without taking steps to protect Ortiz's interest, thereby causing Pfefer to  
3 violate RPC 1.16(c) and RPC 1.16(d) regarding duties on terminating representation.

#### 4 IV. PRIOR DISCIPLINE

5 7. Respondent has no prior discipline.

#### 6 V. APPLICATION OF ABA STANDARDS

7 8. The applicable Standards from the American Bar Association Standards for  
8 Imposing Lawyer Sanctions (1991 ed. & Feb. 1992 Supp.) are attached as Exhibit A.

9 9. Respondent was negligent in violating RPC 5.1(c) by ordering Pfefer to withdraw  
10 from Ortiz's case without giving 10 days notice as required by CR 71 and without taking steps  
11 to protect Ortiz's interest, thereby causing Pfefer to violate RPC 1.16(c) and RPC 1.16(d).  
12 There was injury to Ortiz as a result of Respondent's actions.

13 10. The presumptive sanction is reprimand.

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

15 (i) substantial experience in the practice of law.

16  
17 12. The following mitigating factors apply under ABA Standard 9.32:

18 (a) absence of a prior disciplinary record;

19 (b) absence of a dishonest or selfish motive.

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

23 14. Based on the factors set forth above, the presumptive sanction should be mitigated

1 to admonition.

2 **VI. STIPULATED DISPOSITION**

3 15. The parties stipulate that Respondent shall receive an admonition for his conduct.  
4 A copy of the proposed admonition is attached as Exhibit A. Respondent agrees to the  
5 language of the admonition.

6 **VII. RESTITUTION**

7 16. Restitution is not indicated in this case as Respondent has already compensated  
8 Ortiz.

9 **VIII. COSTS AND EXPENSES**

10 17. In light of Respondent's willingness to resolve this matter by stipulation at an early  
11 stage of the proceedings, Respondent shall pay attorney fees and administrative costs of \$375  
12 in accordance with ELC 13.9(i). The Association will seek a money judgment under ELC  
13 13.9(l) if these costs are not paid within 30 days of approval of this stipulation

14 **IX. VOLUNTARY AGREEMENT**

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

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

22 **X. LIMITATIONS**

23 20. This Stipulation is a compromise agreement intended to resolve this matter in

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1 accordance with the purposes of lawyer discipline while avoiding further proceedings and the  
2 expenditure of additional resources by the Respondent and ODC. Both the Respondent lawyer  
3 and ODC acknowledge that the result after further proceedings in this matter might differ from  
4 the result agreed to herein.

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

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

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

18 24. If this Stipulation is approved by the Hearing Officer, it will be followed by the  
19 disciplinary action agreed to in this Stipulation. All notices required in the Rules for  
20 Enforcement of Lawyer Conduct will be made.

21 25. If this Stipulation is not approved by the Hearing Officer, this Stipulation will have  
22 no force or effect, and neither it nor the fact of its execution will be admissible as evidence in  
23 the pending disciplinary proceeding, in any subsequent disciplinary proceeding, or in any civil

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1 or criminal action.

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

4 

5 Robert E. Caruso, Bar No. 29338  
6 Respondent

Dated: 3 September 2015

7 

8 Debra Slater, Bar No. 18346  
9 Disciplinary Counsel

Dated: September 9, 2015



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

10 In re

11 **ROBERT E. CARUSO,**

12 Lawyer (Bar No. 29338).

13 Proceeding No. 14#00006

14 ADMONITION

15 Pursuant to Rule 13.5 of the Rules for Enforcement of Lawyer Conduct, the following  
16 Admonition was issued by Review Committee II.

17 **I. ADMISSION TO PRACTICE**

18 At all times material to the complaint, you were licensed to practice in the state of  
19 Washington.

20 **II. FACTS**

21 1. You were hired by Ana Ortiz to represent her in two personal injury cases arising  
22 from separate automobile collisions; one involving James Hajek and a second involving Asli  
23 Mohamed. Ortiz's daughter was a passenger in the vehicle that was involved in the Hajek  
24 collision.

2. You assigned the case to the junior partner in the firm, Matthew Pfefer.

3. On February 10, 2009, a few days before the statute of limitations would run,

1 Pfefer filed a complaint in the Hajek case on behalf of Ortiz and her daughter in King County  
2 Superior Court. On October 28, 2010, Pfefer filed a complaint in King County Superior Court  
3 in the Mohamed case.

4 4. On May 5, 2011, you concluded that Pfefer had a conflict of interest in both cases.  
5 You ordered Pfefer to file a Notice of Withdrawal in both cases, "effective immediately." On  
6 May 5, 2011, Pfefer filed the Notices of Withdrawal. You did not take steps to protect your  
7 client's interests.

8 5. The Notices of Withdrawal did not comply with CR 71, which requires that the  
9 date of the withdrawal be at least 10 days after service of the Notice of Withdrawal.

10 **III. MISCONDUCT**

11 6. You violated RPC 5.1(c) by ordering Pfefer to withdraw from Ortiz's and her  
12 daughter's case without giving 10 days notice as required by CR 71, and without taking steps to  
13 protect Ortiz's interest, causing Pfefer to violate RPC 1.16(c) and RPC 1.16(d).

14 **IV. ADMONITION**

15 YOU ARE HEREBY ADMONISHED FOR THIS MISCONDUCT. This admonition is  
16 not a disciplinary sanction, but is a disciplinary action, and shall be admissible in evidence in  
17 subsequent discipline or disability proceedings involving you.

18  
19 Dated this \_\_\_\_ day of \_\_\_\_\_, 2015.

20  
21 \_\_\_\_\_  
22 Disciplinary Board Chair  
23  
24