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**DISCIPLINARY
BOARD**

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BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

CATHERINE SUSAN WILLMORE,

Lawyer (Bar No. 33459).

Proceeding No. 15#00072

STIPULATION TO SUSPENSION

Under Rule 9.1 of the Rules for Enforcement of Lawyer Conduct (ELC), and following a settlement conference conducted under ELC 10.12(h), the following Stipulation to suspension is entered into by the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through disciplinary counsel Erica Temple, Respondent's Counsel Patrick Christopher Sheldon and Respondent lawyer Catherine Susan Willmore.

Respondent understands that she is entitled under the ELC to a hearing, to present exhibits and witnesses on her behalf, and to have a hearing officer determine the facts, misconduct and sanction in this case. Respondent further understands that she 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 her. Respondent chooses to resolve this proceeding

Stipulation to Discipline
Page 1

OFFICE OF DISCIPLINARY COUNSEL OF THE
WASHINGTON STATE BAR ASSOCIATION
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1 now by entering into the following stipulation to facts, misconduct and sanction to avoid the
2 risk, time, and expense attendant to further proceedings.

3 **I. ADMISSION TO PRACTICE**

4 1. Respondent was admitted to practice law in the State of Washington on April 10,
5 2003.

6 **II. STIPULATED FACTS**

7 2. On August 23, 2011 Respondent agreed to represent Cesar Montes Robles in
8 immigration proceedings.

9 3. Specifically, Respondent agreed to represent Mr. Montes Robles in his upcoming
10 removal proceedings in immigration court.

11 4. Respondent also agreed to prepare and file a U-visa (Form I-918) application for
12 Mr. Montes Robles.

13 5. Respondent also agreed to file, and did file, multiple applications for Mr. Montes
14 Robles's employment authorization documents.

15 6. Throughout her representation, Respondent sometimes communicated with Mr.
16 Montes Robles through his wife, Angela Montes.

17 7. On November 9, 2011 Respondent represented Mr. Montes Robles at his
18 individual hearing before an immigration judge. The judge denied Mr. Montes Robles's
19 applications for cancellation of removal and asylum, and ordered him removed.

20 8. Later that day, Respondent agreed to file a notice of appeal of the judge's decision
21 and a brief with the Board of Immigration Appeals (BIA).

22 9. Respondent received an additional fee from Mr. Montes Robles for this appeal.

23 10. Respondent timely filed a Notice of Appeal with the BIA.

1 11. The BIA sent Respondent a scheduling order, indicating that her opening brief was
2 due on February 2, 2012.

3 12. On January 31, 2012 Respondent filed a request with the BIA for an extension of
4 time to file her brief.

5 13. Respondent did not tell Mr. Montes Robles or Ms. Montes about this action.

6 14. The BIA granted Respondent's request and issued an order stating that the brief
7 was due on February 22, 2012.

8 15. Respondent knew of the new deadline. She did not timely file a brief.

9 16. On February 21, 2012 Respondent submitted a request to the BIA for a 15-day
10 extension to file her brief.

11 17. Respondent did not tell Mr. Montes Robles or Ms. Montes about this action.

12 18. On February 23, 2012 the BIA issued a letter to Respondent denying the request
13 for an extension.

14 19. Respondent did not tell Mr. Montes Robles or Ms. Montes about this letter.

15 20. Respondent never filed a brief with the BIA on behalf of Mr. Montes Robles.

16 21. In June 2012 Respondent completed the U-visa application on behalf of Angela
17 Montes and her children. Mr. Montes Robles was the derivative applicant.

18 22. Respondent never sent the U-visa application to the U.S. Department of Homeland
19 Security.

20 23. Respondent negligently confirmed to Ms. Montes that Respondent had filed the U-
21 visa application.

22 24. On October 18, 2013 the BIA issued a decision dismissing Mr. Montes Robles's
23 appeal. Respondent received this decision.

1 25. Respondent agreed to file a petition for review of the BIA decision with the United
2 States Court of Appeals for the Ninth Circuit (Ninth Circuit) on behalf of Mr. Montes Robles.

3 26. Respondent received the filing fee of \$450 from Mr. Montes Robles to file the
4 petition for review. Respondent did not agree to file the Ninth Circuit brief without additional
5 payment for that work.

6 27. On November 15, 2013 Respondent filed a petition for review and a motion for
7 stay with the Ninth Circuit.

8 28. The Ninth Circuit ordered that the opening brief for Mr. Montes Robles must be
9 filed by May 8, 2014. Respondent received this order.

10 29. Respondent did not file a brief, because Mr. Montes Robles had not hired her to do
11 so. She also did not take action to withdraw.

12 30. On August 28, 2014, the Ninth Circuit issued an Order (Order) dismissing Mr.
13 Montes Robles's case for failure to file an opening brief. The Ninth Circuit directed
14 Respondent to notify Mr. Montes Robles in writing immediately of the Order.

15 31. Respondent received the Order.

16 32. Respondent did not comply with the Order. She did not notify Mr. Montes Robles
17 as directed by the Ninth Circuit.

18 33. On September 27, 2014 the Department of Homeland Security issued a notice to
19 Ms. Montes that she must deliver Mr. Montes Robles to the Immigration and Customs
20 Enforcement Office (ICE) in Seattle.

21 34. When Ms. Montes contacted Respondent about the notice, in October 2014,
22 Respondent assured Mr. Montes Robles and Ms. Montes that she had not received any decision
23 from the Ninth Circuit. This was a false statement.

1 45. In November 2010, Respondent received an admonition for a violation of RPC 1.3.

2 **V. APPLICATION OF ABA STANDARDS**

3 46. The following American Bar Association Standards for Imposing Lawyer Sanctions
4 (1991 ed. & Feb. 1992 Supp.), attached as Appendix A, apply to this case:

5 47. ABA Standard 4.4 is most applicable to the duty to act with diligence and the duty to
6 communicate with clients.

7 48. Respondent acted knowingly in failing to act with diligence and communicate with
8 her client.

9 49. The actual injury was serious. Mr. Montes Robles and Ms. Montes paid for legal
10 services they did not receive, suffered fear and frustration when they received the notice from
11 ICE, and had to hire a new lawyer to file the U-Visa application and pursue the appeal.

12 50. The presumptive sanction is suspension.

13 51. ABA Standard 8.0 is most applicable to cases involving prior discipline. Respondent
14 has been reprimanded (and admonished) for the same or similar misconduct.

15 52. The presumptive sanction is suspension.

16 53. ABA Standard 6.2 is most applicable to a lawyer's failure to obey any obligation
17 under the rules of a tribunal.

18 54. Respondent received the Ninth Circuit Order, but acted negligently in failing to
19 comply.

20 55. The presumptive sanction is reprimand.

21 56. ABA Standard 4.6 is most applicable to cases where the lawyer engages in fraud,
22 deceit, or misrepresentation directed toward a client.

23 57. The presumptive sanction is suspension.

1 58. The following aggravating factors apply under ABA Standard 9.22:

- 2 (a) prior disciplinary offenses [In July 2008, Ms. Willmore received a reprimand
3 for violations of RPC 1.1, 1.3, 1.4, and 1.14. In November 2010, Ms.
4 Willmore received an admonition for a violation of RPC 1.3];
5 (d) multiple offenses;
6 (i) substantial experience in the practice of law [Ms. Willmore was admitted to
7 practice in 2003].

8 59. The following mitigating factor applies under ABA Standard 9.32:

- 9 (d) timely good faith effort to make restitution or to rectify the consequences of
10 misconduct.

11 60. On balance the aggravating and mitigating factors do not require a departure from
12 the presumptive sanction.

13 VI. STIPULATED DISCIPLINE

14 61. The parties stipulate that Respondent shall receive an 18 month suspension for her
15 conduct.

16 62. Respondent will be subject to probation for a period of 24 months beginning when
17 Respondent is reinstated to the practice of law and shall comply with the specific probation
18 terms set forth below:

19 63. Respondent shall be subject to probation for a period of 24 months beginning on the
20 date Respondent is reinstated to the practice of law.

21 64. The conditions of probation are set forth below. Respondent's compliance with
22 these conditions shall be monitored by the Probation Administrator of the Office of Disciplinary
23 Counsel ("Probation Administrator"). Failure to comply with a condition of probation listed
24 herein may be grounds for further disciplinary action under ELC 13.8(b).

25 Practice Monitor

- 26 a) During the period of probation, Respondent's practice shall be supervised by a
27 practice monitor. The practice monitor must be a WSBA member with no record of

1 public discipline and who is not the subject of a pending public disciplinary
2 proceeding.

- 3 b) The practice monitor shall consult with and provide guidance to Respondent
4 regarding case management, office management, and avoiding violations of the
5 Rules of Professional Conduct. While appointed as practice monitor during the
6 probation period, the practice monitor does not represent the Respondent.
- 7 c) No later than 15 days after probation begins, Respondent may provide to the
8 Probation Administrator, in writing, the name and contact information of a proposed
9 practice monitor. The Probation Administrator may or may not approve the
10 proposed practice monitor. If Respondent fails to propose a practice monitor within
11 15 days, or if the Probation Administrator does not approve the proposed practice
12 monitor, the Probation Administrator will propose to Respondent a practice
13 monitor. If Respondent objects to the Probation Administrator's proposal, ODC
14 will submit a request that a practice monitor be appointed by the Chair of the
15 Disciplinary Board. *See* ELC 13.8(a)(2). Respondent shall cooperate with the
16 practice monitor agreed to by ODC and Respondent or appointed by the Chair of the
17 Disciplinary Board.
- 18 d) During the period of probation, Respondent shall meet with the practice monitor at
19 least once per month. At each meeting, the practice monitor will discuss with
20 Respondent each of Respondent's client matters, the status of each client matter,
21 Respondent's communication with each client, upcoming deadlines, and
22 Respondent's intended course of action. Meetings may be in person or by telephone
23 at the practice monitor's discretion.
- 24 e) The practice monitor will provide the Probation Administrator with quarterly
reports regarding Respondent's performance on probation. Each report must
include the date of each meeting with Respondent, a brief synopsis of the discussion
topics, and a brief description of any concerns the practice monitor has regarding
the Respondent's compliance with the RPC. The report must be signed by the
practice monitor. Each report is due within 30 days of the completion of the
quarter.
- f) If the practice monitor believes that Respondent is not complying with any of her
ethical duties under the RPC or if Respondent fails to attend a monthly meeting, the
practice monitor shall promptly report that to the Probation Administrator.
- g) Respondent shall be responsible for paying any and all fees, costs and/or expenses
charged by the practice monitor for supervision.

VII. RESTITUTION

65. Respondent agrees to pay \$2,000 restitution to Cesar Montes Robles. Reinstatement

from suspension is conditioned on payment of restitution.

1 **VIII. COSTS AND EXPENSES**

2 66. In light of Respondent's willingness to resolve this matter by stipulation at an early
3 stage of the proceedings, Respondent shall pay attorney fees and administrative costs of \$1,000
4 in accordance with ELC 13.9(i). The Association will seek a money judgment under ELC
5 13.9(l) if these costs are not paid within 30 days of approval of this stipulation. Reinstatement
6 from suspension or disbarment is conditioned on payment of costs.

7 **IX. VOLUNTARY AGREEMENT**

8 67. Respondent states that prior to entering into this Stipulation she has consulted
9 independent legal counsel regarding this Stipulation, that Respondent is entering into this
10 Stipulation voluntarily, and that no promises or threats have been made by ODC, the
11 Association, nor by any representative thereof, to induce the Respondent to enter into this
12 Stipulation except as provided herein.

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

15 **X. LIMITATIONS**

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

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

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

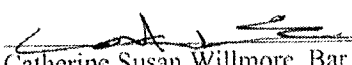
8 72. Under Disciplinary Board policy, in addition to the Stipulation, the Disciplinary
9 Board shall have available to it for consideration all documents that the parties agree to submit
10 to the Disciplinary Board, and all public documents. Under ELC 3.1(b), all documents that
11 form the record before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

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

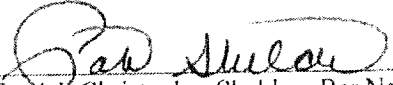
16 74. If this Stipulation is not approved by the Disciplinary Board and Supreme Court, this
17 Stipulation will have no force or effect, and neither it nor the fact of its execution will be
18 admissible as evidence in the pending disciplinary proceeding, in any subsequent disciplinary
19 proceeding,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

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

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4 
Catherine Susan Willmore, Bar No. 33459
Respondent

Dated: 5/13/16

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6 
Patrick Christopher Sheldon, Bar No. 11398
Counsel for Respondent

Dated: May 16 2016

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8 
9 Erica Temple, Bar No. 28458
Disciplinary Counsel

Dated: May 17, 2016

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APPENDIX A

APPENDIX A

4.4 Lack of Diligence

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving a failure to act with reasonable diligence and promptness in representing a client:

- 4.41 Disbarment is generally appropriate when:
 - (a) a lawyer abandons the practice and causes serious or potentially serious injury to a client; or
 - (b) a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; or
 - (c) a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.
- 4.42 Suspension is generally appropriate when:
 - (a) a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client, or
 - (b) a lawyer engages in a pattern of neglect and causes injury or potential injury to a client.
- 4.43 Reprimand is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client.
- 4.44 Admonition is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes little or no actual or potential injury to a client.

4.6 Lack of Candor

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases where the lawyer engages in fraud, deceit, or misrepresentation directed toward a client:

- 4.61 Disbarment is generally appropriate when a lawyer knowingly deceives a client with the intent to benefit the lawyer or another, and causes serious injury or potential serious injury to a client.
- 4.62 Suspension is generally appropriate when a lawyer knowingly deceives a client, and causes injury or potential injury to the client.
- 4.63 Reprimand is generally appropriate when a lawyer negligently fails to provide a client with accurate or complete information, and causes injury or potential injury to the client.
- 4.64 Admonition is generally appropriate when a lawyer engages in an isolated instance of negligence in failing to provide a client with accurate or complete information, and causes little or no actual or potential injury to the client.

6.2 Abuse of the Legal Process

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving failure to expedite litigation or bring a meritorious claim, or failure to obey any obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists:

- 6.21 Disbarment is generally appropriate when a lawyer knowingly violates a court order or rule with the intent to obtain a benefit for the lawyer or another, and

- causes serious injury or potentially serious injury to a party or causes serious or potentially serious interference with a legal proceeding.
- 6.22 Suspension is generally appropriate when a lawyer knows that he or she is violating a court order or rule, and causes injury or potential injury to a client or a party, or causes interference or potential interference with a legal proceeding.
- 6.23 Reprimand is generally appropriate when a lawyer negligently fails to comply with a court order or rule, and causes injury or potential injury to a client or other party, or causes interference or potential interference with a legal proceeding.
- 6.24 Admonition is generally appropriate when a lawyer engages in an isolated instance of negligence in complying with a court order or rule, and causes little or no actual or potential injury to a party, or causes little or no actual or potential interference with a legal proceeding.

8.0 *Prior Discipline Orders*

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving prior discipline.

- 8.1 Disbarment is generally appropriate when a lawyer:
- (a) intentionally or knowingly violates the terms of a prior disciplinary order and such violation causes injury or potential injury to a client, the public, the legal system, or the profession; or
 - (b) has been suspended for the same or similar misconduct, and intentionally or knowingly engages in further similar acts of misconduct that cause injury or potential injury to a client, the public, the legal system, or the profession.
- 8.2 Suspension is generally appropriate when a lawyer has been reprimanded for the same or similar misconduct and engages in further similar acts of misconduct that cause injury or potential injury to a client, the public, the legal system, or the profession.
- 8.3 Reprimand is generally appropriate when a lawyer:
- (a) negligently violates the terms of a prior disciplinary order and such violation causes injury or potential injury to a client, the public, the legal system, or the profession; or
 - (b) has received an admonition for the same or similar misconduct and engages in further similar acts of misconduct that cause injury or potential injury to a client, the public, the legal system, or the profession.
- 8.4 An admonition is generally not an appropriate sanction when a lawyer violates the terms of a prior disciplinary order or when a lawyer has engaged in the same or similar misconduct in the past.