

FILED

Jul 19, 2023

Disciplinary
Board

Docket # 033

DISCIPLINARY BOARD
WASHINGTON STATE BAR ASSOCIATION

In re

JOHN DAVID DU WORS,

Lawyer (Bar No. 33987).

Proceeding No. 22#00039

ODC File No(s). 20-01495
21-01049

STIPULATION TO SUSPENSION

Following settlement conference conducted
under ELC 10.12(h)

Under Rule 9.1 of the Washington Supreme Court's 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 Marsha Matsumoto and Marina Busse, Respondent's counsel Todd Maybrown, and Respondent lawyer John David Du Wors.

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

1 under the ELC to appeal the outcome of a hearing to the Disciplinary Board, and, in certain cases,
2 the Supreme Court. Respondent further understands that a hearing and appeal could result in an
3 outcome more favorable or less favorable to Respondent. Respondent chooses to resolve this
4 proceeding now by entering into the following stipulation to facts, misconduct and sanction to
5 avoid the risk, time, expense, and publicity attendant to further proceedings.

6 I. ADMISSION TO PRACTICE

7 1. Respondent was admitted to practice law in the State of Washington on October 20,
8 2003.

9 II. STIPULATED FACTS

10 Bainbridge Island Municipal Court Case No. 20704303

11 2. On July 1, 2017, Respondent hit a parked vehicle (a Ford Ranger) while driving a Jeep
12 Wrangler.

13 3. The collision scattered debris at the scene, including a right front fender from a Jeep
14 Wrangler and parts marked with a Jeep logo.

15 4. Respondent left the scene of the collision without stopping, without locating and
16 notifying the owner of the Ford Ranger, and without leaving written notice on the Ford Ranger
17 of Respondent's name and address.

18 5. Respondent arranged for a tow company to tow the Jeep Wrangler from Respondent's
19 home to the tow company. Respondent informed the tow company representative that the Jeep
20 Wrangler was hit at Respondent's home.

21 6. On July 2, 2017, police located the Jeep Wrangler at the tow company and determined
22 that the vehicle was registered to Respondent. The Jeep Wrangler had front-end damage including
23 a missing right front fender.

1 7. When police contacted Respondent, Respondent told police that:

2 (a) Respondent drove home the previous night (July 1, 2017) with the Jeep Wrangler
3 in proper condition;

4 (b) Respondent parked the Jeep Wrangler at the bottom of Respondent's driveway,
5 along the eastbound side of the road, facing southbound;

6 (c) the following morning (July 2, 2017), Respondent discovered damage to the right
7 front corner of the Jeep Wrangler;

8 (d) the Jeep Wrangler had been hit by a hit and run driver; and

9 (e) no parts had broken off the Jeep Wrangler in the collision.

10 8. Respondent's statements to the police were false, and Respondent knew they were
11 false when Respondent made them.

12 9. When the police challenged Respondent's statements with contrary evidence,
13 Respondent denied knowing what the police were talking about. For example:

14 (a) When the police noted that there should have been debris from the collision and
15 asked what happened to the debris, Respondent said that Respondent was not sure
16 what the police meant;

17 (b) When the police observed that the Jeep Wrangler was missing its right front fender
18 and asked Respondent where the fender was, Respondent said that Respondent
19 was not sure what the police meant;

20 (c) When the police informed Respondent that they believed Respondent had struck
21 the back of another vehicle with the Jeep Wrangler, Respondent denied knowing
22 what the police were talking about.

23 10. When the police continued to ask questions, Respondent told the police to come back

1 with a warrant.

2 11. On July 21, 2017, Respondent was charged with hit and run – unattended vehicle and
3 obstructing a public officer.

4 12. On April 24, 2018, Respondent pleaded guilty to hit and run – unattended vehicle
5 (RCW 46.52.010(1)), a misdemeanor.

6 13. The court sentenced Respondent to 90 days in jail with 83 days suspended.

7 14. The court also ordered Respondent to obtain a chemical dependency evaluation from
8 a state-certified agency within 90 days and to successfully comply with all recommendations.

9 15. The court further prohibited Respondent from consuming or possessing any alcoholic
10 beverage or marijuana or non-prescribed drugs until the evaluation was filed and treatment was
11 completed.

12 False Statements to Insurance Company

13 16. In connection with the hit and run incident, Bainbridge Island Municipal Court Case
14 No. 20704303, Respondent made an insurance claim under Respondent's policy with
15 Government Employees Insurance Company (GEICO).

16 17. On July 2, 2017, Respondent reported a loss to GEICO regarding the Jeep Wrangler.

17 18. Respondent informed a GEICO representative that Respondent had gone outside and
18 found the vehicle, a leased 2016 Jeep Wrangler, severely damaged.

19 19. Respondent denied knowing how the vehicle had been damaged, stating that the
20 vehicle had been parked outside of Respondent's home, without a driver present, when the
21 damage occurred.

22 20. Respondent's statements to GEICO were false, and Respondent knew they were false
23 when Respondent made them.

1 21. GEICO logged Respondent's claim as a "hit and run – phantom vehicle," using the
2 information provided by Respondent.

3 22. On November 1, 2017, GEICO sent Respondent a letter indicating that the Jeep
4 Wrangler had been declared a total loss.

5 23. GEICO paid the Jeep's owner, Chrysler Capital Leasing, \$27,308.46 and the claim
6 was closed.

7 24. Respondent never corrected the false statements made to GEICO. Had Respondent
8 told GEICO the truth from the beginning, Respondent would have been found "at fault."

9 25. The victim of the hit and run suffered the loss of their vehicle, which was totaled in
10 the collision, and had to expend more than \$6,000 of the victim's own funds to replace the vehicle.

11 26. In or around 2022, after being contacted by ODC, GEICO covered the victim's loss.

12 Bainbridge Island Municipal Court Case No. 20704307

13 27. On July 4, 2019, police observed Respondent driving erratically and crossing the
14 center line. Police observed that Respondent smelled of alcohol and had bloodshot eyes.

15 28. After taking a field sobriety test, Respondent was arrested for Driving Under the
16 Influence (DUI).

17 29. On July 5, 2019, Respondent was charged with DUI.

18 30. On July 30, 2019, Respondent pleaded guilty to DUI (RCW 46.61.502(5)), a gross
19 misdemeanor.

20 31. The court sentenced Respondent to 364 days in jail with 363 days suspended, and 15
21 days of electronic home monitoring in lieu of jail. The court suspended Respondent's driver's
22 license for one year and ordered Respondent to attend a DUI Victim's Panel within 90 days,
23 obtain a chemical dependency evaluation from a state-certified agency within 90 days, and

1 successfully comply with all recommendations. The court further prohibited Respondent from
2 consuming or possessing any alcoholic beverage or marijuana or non-prescribed drugs until
3 Respondent complied with all court conditions.

4 III. STIPULATION TO MISCONDUCT

5 32. By committing the acts that resulted in Respondent's conviction of hit and run –
6 unattended vehicle and conviction of driving under the influence, Respondent violated RPC
7 8.4(i).

8 33. By making false statements to the police, Respondent violated RPC 8.4(c), RPC
9 8.4(d), and RPC 8.4(i).

10 34. By making false statements to GEICO regarding the hit and run and Respondent's
11 insurance claim, Respondent violated RPC 8.4(c).

12 IV. PRIOR DISCIPLINE

13 35. Respondent has no prior discipline in Washington.

14 V. APPLICATION OF ABA STANDARDS

15 36. The following American Bar Association Standards for Imposing Lawyer Sanctions
16 (1991 ed. & Feb. 1992 Supp.) apply to this case:

17 6.1 False Statements, Fraud, and Misrepresentation

18 Absent aggravating or mitigating circumstances, upon application of the
19 factors set out in Standard 3.0, the following sanctions are generally appropriate
20 in cases involving conduct that is prejudicial to the administration of justice or
21 that involves dishonesty, fraud, deceit, or misrepresentation to a court:

22 6.11 Disbarment is generally appropriate when a lawyer, with the intent to
23 deceive the court, makes a false statement, submits a false document, or
24 improperly withholds material information, and causes serious or
potentially serious injury to a party, or causes a significant or potentially
significant adverse effect on the legal proceeding.

6.12 Suspension is generally appropriate when a lawyer knows that false
statements or documents are being submitted to the court or that material
information is improperly being withheld, and takes no remedial action,
and causes injury or potential injury to a party to the legal proceeding, or

- 1 causes an adverse or potentially adverse effect on the legal proceeding.
- 2 6.13 Reprimand is generally appropriate when a lawyer is negligent either in
- 3 determining whether statements or documents are false or in taking
- 4 remedial action when material information is being withheld and causes
- 5 injury or potential injury to a party to the legal proceeding, or causes an
- 6 adverse or potentially adverse effect on the legal proceeding.
- 7 6.14 Admonition is generally appropriate when a lawyer engages in an isolated
- 8 instance of neglect in determining whether submitted statements or
- 9 documents are false or in failing to disclose material information upon
- 10 learning of its falsity, and causes little or no actual or potential injury to a
- 11 party, or causes little or no adverse or potentially adverse effect on the legal
- 12 proceeding.

13 ***5.1 Failure to Maintain Personal Integrity***

14 Absent aggravating or mitigating circumstances, upon application of the

15 factors set out in Standard 3.0, the following sanctions are generally appropriate

16 in cases involving commission of a criminal act that reflects adversely on the

17 lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects, or in

18 cases with conduct involving dishonesty, fraud, deceit, or misrepresentation:

- 19 5.11 Disbarment is generally appropriate when:
- 20 (a) a lawyer engages in serious criminal conduct, a necessary element
- 21 of which includes intentional interference with the administration of
- 22 justice, false swearing, misrepresentation, fraud, extortion,
- 23 misappropriation, or theft; or the sale, distribution or importation of
- 24 controlled substances; or the intentional killing of another; or an
- attempt or conspiracy or solicitation of another to commit any of
- these offenses; or
- (b) a lawyer engages in any other intentional conduct involving
- dishonesty, fraud, deceit, or misrepresentation that seriously
- adversely reflects on the lawyer's fitness to practice.
- 5.12 Suspension is generally appropriate when a lawyer knowingly
- engages in criminal conduct which does not contain the elements
- listed in Standard 5.11 and that seriously adversely reflects on the
- lawyer's fitness to practice.
- 5.13 Reprimand is generally appropriate when a lawyer knowingly
- engages in any other conduct that involves dishonesty, fraud, deceit,
- or misrepresentation and that adversely reflects on the lawyer's
- fitness to practice law.
- 5.14 Admonition is generally appropriate when a lawyer engages in any
- other conduct that reflects adversely on the lawyer's fitness to
- practice law.

37. Respondent acted knowingly when Respondent violated the criminal law.

Respondent acted knowingly and intentionally when Respondent made false statements to the

1 | police and to GEICO.

2 | 38. Respondent's conduct caused injury to the victim of the hit and run, the legal system,
3 | and the profession, and seriously adversely reflects on Respondent's fitness to practice law.

4 | 39. The presumptive sanction is suspension.

5 | 40. The following aggravating factors apply under ABA Standard 9.22:

6 | (c) pattern of misconduct;

7 | (d) multiple offenses; and

(i) substantial experience (licensed in Washington since 2003).

8 | 41. The following mitigating factors apply under ABA Standard 9.32:

9 | (a) absence of a prior disciplinary record; and

(l) remorse.

10 | 42. On balance the aggravating and mitigating factors do not require a departure from the
11 | presumptive sanction of suspension.

12 | VI. STIPULATED DISCIPLINE

13 | 43. The parties stipulate that Respondent shall receive a six-month suspension.

14 | VII. CONDITIONS OF REINSTATEMENT

15 | 44. Reinstatement from suspension is conditioned on payment of costs and expenses, as
16 | provided below. Additional conditions of reinstatement are set forth below.

17 | 45. Respondent shall comply with all court orders entered in matters in which Respondent
18 | has been charged with a crime, including but not limited to, Bainbridge Island Municipal Court,
19 | No. 1A0199117 BIP CT.

20 | 46. Respondent shall, at least 30 days before a request for reinstatement, undergo a
21 | chemical dependency evaluation by a licensed chemical-dependency treatment provider,
22 | approved by ODC. ODC will either approve or reject the proposed evaluator and will notify
23 | Respondent of that decision in writing. If the evaluator is rejected, Respondent shall provide

1 ODC with the name and contact information of another proposed evaluator within three weeks of
2 the date of ODC's letter.

3 47. Respondent shall pay all expenses associated with the examination.

4 48. Respondent shall execute all necessary releases and authorizations to permit the
5 evaluator and disciplinary counsel to obtain full access to all pertinent health care and treatment
6 records for the applicable time period, and to permit the evaluator to release information regarding
7 the evaluation to disciplinary counsel, including a written report of the evaluator's findings,
8 diagnosis, and recommended treatment plan, if any. Respondent shall provide disciplinary
9 counsel with a copy of the releases and authorizations.

10 49. If the evaluator concludes there is reasonable cause to believe that Respondent does
11 not have the mental or physical capacity to practice law, then disciplinary counsel may report to
12 a review committee as provided in ELC 8.2.

13 50. If the evaluator recommends treatment, then Respondent shall undergo treatment with
14 a treatment provider and be subject to probation for a period of two years beginning on the date
15 Respondent is reinstated to the practice of law. The conditions of probation are set forth below.

16 51. If the evaluator does not recommend treatment, then Respondent will not be required
17 to undergo treatment and will not be subject to probation requiring treatment.

18 VIII. CONDITIONS OF PROBATION

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

21 53. 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 Counsel ("Probation Administrator"). Failure to comply with a condition of probation listed

1 herein may be grounds for further disciplinary action under ELC 13.8(b).

2 54. Respondent shall comply with all court orders entered in matters in which Respondent
3 has been charged with a crime, including but not limited to, Bainbridge Island Municipal Court,
4 No. 1A0199117 BIP CT.

5 55. Respondent shall not commit any new violations of criminal law.

6 56. If the chemical-dependency evaluator recommends treatment (see ¶¶ 46-51),
7 Respondent shall undergo treatment with the evaluator or with another treatment provider
8 approved by the Probation Administrator.

9 57. Respondent shall comply with all requirements and recommendations of the treatment
10 provider, including but not limited to the completion of any period of in- or out-patient treatment
11 and aftercare, the taking of any prescribed medications, abstinence/sobriety as required, and
12 compliance with any toxicology monitoring.

13 58. Respondent shall continue to participate in the recommended treatment program
14 throughout the period of probation or until such time as the treatment provider determines that
15 further participation is not needed.

16 59. Respondent shall participate in a support group, such as Alcoholics Anonymous or
17 Narcotics Anonymous, if participation in such a group is recommended or required by the
18 treatment provider. Respondent shall provide the Probation Administrator with documentation
19 of participation.

20 60. Respondent shall execute an authorization[s] allowing and directing the treatment
21 provider to take the following actions:

- 22 a) on a quarterly basis, send written reports to the Probation Administrator that include
23 the dates of treatment, whether Respondent has been cooperative with treatment,
24 whether continued treatment is recommended, and results of any toxicology reports
required by the treatment provider;

- 1 b) report immediately to the Probation Administrator incidences of relapse or if
2 Respondent fails to appear for treatment or stops treatment without the provider's
3 agreement and consent prior to either termination of the treatment plan or expiration
4 of the probation period set forth in this stipulation;
- 5 c) report immediately to the Probation Administrator if Respondent fails to comply with
6 any treatment recommendations of the treatment provider;
- 7 d) report immediately to the Probation Administrator if Respondent otherwise violates
8 any of the terms or conditions of probation;
- 9 e) report immediately to the Probation Administrator if the provider will no longer serve
10 as treatment provider to Respondent prior to termination of the treatment plan or
11 expiration of the probation period set forth in this stipulation; and
- 12 f) report to the Probation Administrator if Respondent successfully completes treatment
13 and is discharged from further treatment.

14 61. Respondent shall provide a copy of the authorization[s] to the Probation Administrator
15 upon execution.

16 62. If Respondent changes treatment providers during the course of the probation term,
17 Respondent shall inform the Probation Administrator within two weeks to obtain approval for a
18 new provider.

19 63. Respondent is responsible for paying any and all fees, costs and/or expenses of
20 chemical dependency evaluation and treatment.

21 IX. RESTITUTION

22 64. No restitution is required.

23 X. COSTS AND EXPENSES

24 65. Respondent shall pay attorney fees and administrative costs of \$2,000 in accordance
with ELC 13.9(i). The Association will seek a money judgment under ELC 13.9(l) if these costs
are not paid within 30 days of approval of this stipulation.

66. Reinstatement from suspension is conditioned on payment of costs.

1 **XI. VOLUNTARY AGREEMENT**

2 67. Respondent states that prior to entering into this Stipulation, Respondent has consulted
3 with independent legal counsel regarding this Stipulation, that Respondent is entering into this
4 Stipulation voluntarily, and that no promises or threats have been made by ODC, the Association,
5 nor by any representative thereof, to induce the Respondent to enter into this Stipulation except
6 as provided herein.

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

9 **XII. LIMITATIONS**

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

15 70. This Stipulation is not binding upon ODC or the Respondent as a statement of all
16 existing facts relating to the professional conduct of the Respondent, and any additional existing
17 facts may be proven in any subsequent disciplinary proceedings.

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

1 72. Under ELC 3.1(b), all documents that form the record before the Disciplinary Board
2 for Disciplinary Board's review become public information on approval of the Stipulation by the
3 Disciplinary Board, unless disclosure is restricted by order or rule of law.

4 73. If this Stipulation is approved by the Disciplinary Board and the Supreme Court, it
5 will be followed by the disciplinary action agreed to in this Stipulation. All notices required in
6 the Rules for Enforcement of Lawyer Conduct will be made. Respondent represents that, in
7 addition to Washington, Respondent also is admitted to practice law in the following jurisdictions,
8 whether current status is active, inactive, or suspended: New York and California.

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

13 WHEREFORE the undersigned being fully advised, adopt and agree to this Stipulation to
14 Suspension as set forth above.

15 

16 _____
17 John David Du Wors, Bar No. 33987
18 Respondent

Dated: 5/31/2023

17 

18 _____
19 Todd Maybrown, Bar No. 18557
20 Counsel for Respondent

Dated: May 31, 2023

20 

21 _____
22 Marsha Matsumoto, Bar No. 15831
23 Managing Disciplinary Counsel

Dated: May 31, 2023