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**FILED**

NOV 15 2012

**DISCIPLINARY BOARD**

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

**ANDREA SALINAS,**  
  
Lawyer (Bar No. 40057).

Proceeding No. 11#00078

STIPULATION TO SUSPENSION

Under Rule 9:1 of the Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to suspension is entered into by the Washington State Bar Association (Association), through disciplinary counsel Erica Temple and Respondent lawyer Andrea Salinas.

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

*DTT*

1 **I. ADMISSION TO PRACTICE**

2 1. Respondent was admitted to practice law in the State of Washington on May 21,  
3 2008. Respondent has been suspended since May 1, 2012 for failure to pay licensing fees.

4 **II. STIPULATED FACTS**

5 The Kral Grievance

6 2. In February 2010, Respondent was appointed to represent William Kral (Kral) in  
7 Benton County Superior Court on his appeal from convictions for driving under the influence  
8 and driving with a suspended license.

9 3. After Respondent filed a brief stating that she saw no grounds for appeal, the court  
10 ordered her to file a supplemental brief.

11 4. Respondent did not file the supplemental brief as directed and the court set the  
12 matter for a status hearing on August 19, 2010.

13 5. Respondent did not appear for the status hearing on August 19, 2010.

14 6. The day before the scheduled status hearing, Respondent left messages for the  
15 prosecutor and the court, stating that she had been in an automobile accident and therefore  
16 would not be able to appear at the Kral hearing.

17 7. Respondent's statement was false.

18 8. Respondent's statement was knowingly made.

19 9. Respondent's false statement was material insofar as it prevented the court from  
20 timely ascertaining whether Kral would be asserting any substantive grounds for relief and it  
21 necessitated a continuance of the matter.

22 10. The court rescheduled the hearing for September 23, 2010.

23 11. The court clerk's office mailed notice of the new court date to Respondent's address  
24 of record and the notice was not returned by the post office.

1 12. On or about September 1, 2010, Respondent moved her practice from Kennewick to  
2 Seattle.

3 13. Respondent did not inform Kral or the court clerk of her move.

4 14. Kral attempted to contact Respondent to learn whether his presence was required in  
5 court for the September 23, 2010 hearing, but was unable to reach her.

6 15. Kral traveled from his home in Snoqualmie to Kennewick to attend the September  
7 23, 2010 hearing. Because he is hearing-impaired, the court arranged for a sign language  
8 interpreter to be present.

9 16. Respondent did not attend the September 23, 2010 hearing and did not advise  
10 anyone that she would be absent. The court ordered Respondent to pay a sanction of \$100 plus  
11 the cost of the interpreter, and re-set the hearing for October 7, 2010.

12 17. Respondent received notice of the sanction but did not pay it.

13 18. Respondent's failure to pay the sanction was knowing.

14 19. The Benton County prosecutor assigned to the Kral case contacted Respondent by  
15 voice mail, U.S. Mail and e-mail to inform her of the October 7, 2010 hearing date.

16 20. Respondent informed the prosecutor that she was unavailable to attend the hearing  
17 on October 7, 2010, and the prosecutor told Respondent to so notify the court.

18 21. Respondent did not inform the court or her client of her inability to attend the  
19 October 7, 2010 hearing.

20 22. Respondent's failure to convey this information to the court or her client was  
21 knowing.

22 23. Respondent did not attend the October 7, 2010 hearing, but Kral and an interpreter  
23 were present.

1 24. The court imposed upon Respondent a sanction of \$100 plus the cost of the  
2 interpreter and \$150 for Kral's travel expenses.

3 25. Respondent was notified of this sanction.

4 26. Respondent did not pay the sanction nor file a supplemental brief on Kral's behalf.

5 27. Respondent's failure to pay the sanction and to file a brief was knowing.

6 28. At the court's request, Kral was assigned a new defense counsel.

7 29. Beginning on or about October 11, 2010, the new counsel attempted to contact  
8 Respondent and made repeated requests to Respondent over a period of about two months to  
9 obtain Kral's file.

10 30. It was necessary for the new counsel to reconstruct a file by obtaining document  
11 copies from the prosecutor.

12 31. In mid-December 2010, the new counsel received two boxes of documents  
13 containing the Kral file, with no cover letter or other communication from Respondent.

14 32. The file contained no indication that Respondent had performed any work on the  
15 supplemental brief.

16 33. Kral filed a grievance against Respondent with the Association.

17 34. In her response to the grievance, Respondent asserted that she had been in an  
18 automobile accident on August 19, 2010, which prevented her from attending court that day.

19 35. This statement was intentional, false, and material.

20 The Kehl/Andersson Grievance

21 36. As of June 29, 2011, lawyer Brandy Andersson represented Angelica Sanchez. Ms.  
22 Sanchez is the mother of twins (the children).

23 37. Ms. Andersson is a lawyer who works for Eastside Legal Assistance Program  
24 (ELAP)

1 38. Hector Olguin is the children's father. As of June 2011, Respondent represented Mr.  
2 Olguin.

3 39. On the afternoon of June 29, 2011, Respondent served Ms. Andersson and Ms.  
4 Sanchez with a Motion/Declaration for Ex Parte Restraining Order and Order to Show Cause  
5 (Motion) to remove the children from Ms. Sanchez and place them with Mr. Olguin.

6 40. Respondent filed the Motion under King County Superior Court No. 11-2-01266-6,  
7 with a caption stating "In re the Parentage of:"

8 41. King County Superior Court No. 11-2-01266-6 pertained to an action brought by  
9 Ms. Sanchez for a Protection Order, which was dismissed by the court in May 2011.

10 42. There was no underlying parentage action to support the Motion.

11 43. On June 29, 2011, Ex Parte Commissioner Velategui granted a Temporary  
12 Protection Order (TPO) to Ms. Sanchez, which restricted either party from leaving King County  
13 with the children.

14 44. Commissioner Velategui told Respondent that, because of the late hour of the day,  
15 she would have to return on another day in order to finish the hearing.

16 45. Commissioner Velategui told Respondent that the date the parties returned should be  
17 agreed to by Ms. Andersson.

18 46. On July 1, 2011, Respondent left Ms. Andersson a voicemail indicating that she  
19 would be in court on the following Tuesday [July 5, 2011], and that she would call back with  
20 the specific time.

21 47. Ms. Andersson faxed and mailed a letter to Respondent indicating that she was not  
22 available on that date and reminded her that the commissioner had instructed them to find a  
23 "mutually agreeable time."

1 48. Respondent had no further communication with Ms. Andersson.

2 49. On July 5, 2011, Respondent appeared in King County Superior Court and presented  
3 an Ex Parte Restraining Order/Order to Show Cause (Order).

4 50. In support of the Order, Respondent told Pro Tem Commissioner Allison that there  
5 “had already been a full hearing on this” and that “the last order entered... was only good until  
6 the next hearing which was today.”

7 51. These were false statements.

8 52. Respondent also stated that the order was necessary to “keep the children in the  
9 state.”

10 53. This was a false statement.

11 54. Respondent did not disclose that the TPO entered on June 29, 2011 already directed  
12 the parties to keep the children in King County, or that Commissioner Velategui had directed  
13 the parties to return at a “mutually agreeable time.”

14 55. The court entered the Order. Respondent did not serve the Order on Ms. Sanchez or  
15 Ms. Andersson or otherwise inform them of the Order.

16 56. Ms. Andersson brought a Motion to Vacate the Order entered on July 5, 2011 and to  
17 impose CR 11 sanctions. Respondent did not appear at the hearing or respond in any way. On  
18 December 21, 2011, Commissioner Velategui signed an Order Awarding Attorney’s Fees of  
19 \$2,816.50 to ELAP based on CR 11 Sanctions.

20 57. Respondent has not paid the sanction.

21 **III. STIPULATION TO MISCONDUCT**

22 58. By failing to file a supplemental brief on Kral’s behalf and by failing to attend three  
23 court hearings in his matter, Respondent violated RPC 1.3 and RPC 3.2.

1           59. By failing to keep Kral apprised of the status of his case, failing to respond to his  
2 inquiries and advise him as to whether his presence was required in court, and by failing to  
3 inform him of her move to Seattle, Respondent violated RPC 1.4(a).

4           60. By failing to promptly provide Kral's file to successor counsel upon request,  
5 Respondent violated RPC 1.16(d).

6           61. By knowingly and willfully failing to pay sanctions the court imposed upon her,  
7 Respondent violated RPC 3.4(c) and RPC 8.4(j).

8           62. By falsely telling the prosecutor that she was unable to attend the August 19, 2010  
9 court hearing because she had been in an automobile accident, Respondent violated RPC 4.1(a),  
10 RPC 8.4(c) and RPC 8.4(d).

11           63. By falsely informing the court that she was unable to attend the August 19, 2010  
12 court hearing because she had been in an automobile accident, Respondent violated RPC  
13 3.3(a)(1), RPC 8.4(c) and RPC 8.4(d).

14           64. By knowingly providing the Association's Office of Disciplinary Counsel a false  
15 account of her actions regarding her failure to appear in court on August 19, 2010, Respondent  
16 violated RPC 8.1(a), RPC 8.4(c) and RPC 8.4(l).

17           65. By filing the initial Motion in June as a parentage action, when no such action  
18 existed, and by appearing in July at the ex-parte hearing without agreement by Ms. Andersson,  
19 and by making statements in the ex-parte proceeding in July that were false, and by failing to  
20 tell the commissioner that there was already a TPO in place restraining the parties from taking  
21 the children from King County, Respondent violated RPC 3.3(a)(1), RPC 3.3(f), RPC 8.4(c) and  
22 RPC 8.4(d).

1 **IV. PRIOR DISCIPLINE**

2 66. Respondent has no prior discipline.

3 **V. APPLICATION OF ABA STANDARDS**

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

6 68. ABA Standard 4.4 is most applicable to the duty to represent a client with diligence:

7 4.42 Suspension is generally appropriate when:

- 8 (a) a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client, or
- 9 (b) a lawyer engages in a pattern of neglect and causes injury or potential injury to a client.

10 69. Respondent acted knowingly when she failed to file a brief on her client's behalf,

11 70. The actual injury to Mr. Kral was substantial delay in resolution of his case, and his  
12 having to travel great distances to court for hearings that were continued due to Respondent's  
13 absence.

14 71. The presumptive sanction is suspension.

15 72. ABA Standard 4.4 is most applicable to the duty to communicate with the client:

16 4.43 Reprimand is generally appropriate when a lawyer is negligent and does not act  
17 with reasonable diligence in representing a client, and causes injury or potential  
injury to a client.

18 73. Respondent acted at least negligently when she did not respond to Mr. Kral's calls or  
19 requests for information.

20 74. The presumptive sanction is reprimand.

21 75. ABA Standard 7.0 is most applicable to Respondent's failure to promptly surrender  
22 her file to successor counsel when requested:

23 7.2 Suspension is generally appropriate when a lawyer knowingly engages in  
24 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.



1 76. Respondent acted knowingly.

2 77. The injury was delay in successor counsel's ability to familiarize himself with the  
3 case and move it forward in a timely manner, and expense to the prosecutor's office in having to  
4 duplicate materials for successor counsel to reconstruct a file.

5 78. The presumptive sanction is suspension.

6 79. ABA Standard 6.2 is most applicable to Respondent's failure to pay sanctions  
7 ordered by the court:

8 6.22 Suspension is generally appropriate when a lawyer knows that he or she is  
9 violating a court order or rule, and causes injury or potential injury to a client or  
10 a party, or causes interference or potential interference with a legal proceeding.

11 80. Respondent acted knowingly.

12 81. The legal system was harmed by the expenditure of court resources when a court  
13 interpreter was engaged unnecessarily and hearings continued.

14 82. The presumptive sanction is suspension.

15 83. ABA Standard 5.1 is most applicable to intentional conduct involving dishonesty  
16 towards the prosecutor in Benton County and toward the Association:

17 5.11 Disbarment is generally appropriate when:

18 ...

19 (b) a lawyer engages in any other intentional conduct involving dishonesty,  
20 fraud, deceit, or misrepresentation that seriously adversely reflects on the  
21 lawyer's fitness to practice.

22 84. Respondent acted intentionally in lying to the prosecutor to get the hearing  
23 continued.

24 85. Respondent acted intentionally in lying to the Association in order to avoid detection  
of her misconduct. The actual injury was the Association's substantial expenditure of time and  
resources in attempting to ascertain the truth.

1 86. Respondent's conduct seriously adversely reflected on her fitness to practice.

2 87. The presumptive sanction is disbarment.

3 88. ABA Standard 6.1 is most applicable to intentional conduct involving dishonesty  
4 towards the court and conduct prejudicial to the administration of justice:

5 6.11 Disbarment is generally appropriate when a lawyer, with the intent to deceive the  
6 court, makes a false statement, submits a false document, or improperly  
7 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.

8 89. Respondent acted intentionally in making false statements to the Benton and King  
9 County Courts.

10 90. In Benton County, the actual injury was delay in advancing Kral's case.

11 91. In King County, there was injury to the profession because of Respondent's violation  
12 of court rules and dishonesty, ELAP because it expended \$2,816 in legal representation that has  
13 not been reimbursed, and Ms. Sanchez, who was subject to an Order that was based upon false  
14 information.

15 92. Respondent's conduct seriously adversely reflected on her fitness to practice and  
16 caused a significant adverse effect both legal proceedings.

17 93. The presumptive sanction is disbarment.

18 94. The following aggravating factors apply under ABA Standards Section 9.22:

19 (c) a pattern of misconduct;

20 (d) multiple offenses.

21 95. The following mitigating factors apply under ABA Standards Section 9.32:

22 (a) absence of a prior disciplinary record;

23 (c) personal or emotional problems. Respondent has a documented history of severe Bi-  
24 Polar Mood Disorder. This disorder significantly contributed to her misconduct.

1 Respondent is currently receiving medical treatment but has not yet demonstrated a  
2 meaningful and sustained period of successful rehabilitation;

3 (f) inexperience in the practice of law [Respondent was admitted to practice in  
4 2008].

5 96. Based on the factors set forth above, the most severe presumptive sanction of  
6 disbarment should be mitigated to a three year suspension.

#### 7 VI. STIPULATED DISCIPLINE

8 97. Respondent stipulates to a three year suspension.

9 98. Respondent and the Association both request that the suspension be calculated as  
10 effective on May 1, 2012, when Respondent began her non-disciplinary suspension.

11 99. As a condition of reinstatement, Respondent shall, at least 30 days prior to a  
12 request for reinstatement, undergo an independent examination by a licensed clinical  
13 psychologist or psychiatrist to be approved by disciplinary counsel. Respondent shall execute  
14 all the necessary releases to permit this evaluator to obtain all necessary treatment records and  
15 make a report to disciplinary counsel addressing the following issues:

- 16 • Whether Respondent has addressed any issues identified by the evaluator as  
17 influencing Respondent's performance as a lawyer;
- 18 • Whether Respondent's condition is such that she is currently fit to practice law and  
19 whether she has experienced at least a six month period of stability and fitness to  
20 practice.
- 21 • If the evaluator concludes that Respondent is not currently fit to practice law, or that  
22 she has not experienced at least a six month period of stability and fitness to  
23 practice, the report shall recommend a course of treatment necessary to enable  
24 Respondent to return to the practice of law.



1 Association, nor by any representative thereof, to induce the Respondent to enter into this  
2 Stipulation except as provided herein.

3 **X. LIMITATIONS**

4 106. This Stipulation is a compromise agreement intended to resolve this matter in  
5 accordance with the purposes of lawyer discipline while avoiding further proceedings and the  
6 expenditure of additional resources by the Respondent and the Association. Both the  
7 Respondent lawyer and the Association acknowledge that the result after further proceedings in  
8 this matter might differ from the result agreed to herein.

9 107. This Stipulation is not binding upon the Association or the respondent as a  
10 statement of all existing facts relating to the professional conduct of the respondent lawyer, and  
11 any additional existing facts may be proven in any subsequent disciplinary proceedings.

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

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

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

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

8 WHEREFORE the undersigned being fully advised, adopt and agree to the facts and  
9 terms of this Stipulation to Discipline as set forth above.

10 

11 Andrea Salinas, Bar No. 40057  
12 Respondent

Dated: 8/30/12

13 

14 Erica Temple, Bar No. 28458  
15 Disciplinary Counsel

Dated: 9/15/12