

FILED

Oct 17, 2022

Disciplinary
Board

Docket # 003

DISCIPLINARY BOARD
WASHINGTON STATE BAR ASSOCIATION

In re

SARA M. HERR-WALDROUP,

Lawyer (Bar No. 43782).

Proceeding No. 22#00046

ODC File No. 21-01438

STIPULATION TO 60-DAY SUSPENSION

Under Rule 9.1 of the Washington Supreme Court's Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to 60-Day Suspension is entered into by the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through disciplinary counsel Henry Cruz and Respondent lawyer Sara M. Herr-Waldroup.

Respondent understands that they are entitled under the ELC to a hearing, to present exhibits and witnesses on their behalf, and to have a hearing officer determine the facts, misconduct and sanction in this case. Respondent further understands that they are 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 them. Respondent chooses to resolve this proceeding now by entering into the following stipulation to facts, misconduct, and sanction to avoid the risk,

1 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 June 9, 2011.

4 **II. STIPULATED FACTS**

5 2. Respondent represented a client in a disability matter before the Social Security
6 Administration (SSA).

7 3. On September 25, 2020, an Administrative Law Judge (ALJ) denied the client's
8 disability claim. The deadline to file an appeal with the SSA Appeals Council was November 30,
9 2020.

10 4. Respondent agreed to file the client's appeal.

11 5. Respondent never filed the client's appeal.

12 6. On December 4, 2020, Amy Hetrick, an SSI Facilitator at the Washington State
13 Department of Social and Health Services, emailed another lawyer at Respondent's firm asking
14 if the firm had filed the client's appeal.

15 7. On December 28, 2020, Respondent told both the client and Hetrick that Respondent
16 did not file the appeal because the appeal lacked merit and that Respondent had drafted an earlier
17 email to the client explaining why the appeal was not filed but failed to send the email.

18 8. Respondent's statements to the client and Hetrick about why Respondent did not file
19 the appeal were false.

20 9. Respondent never drafted the earlier email to the client explaining why the appeal was
21 not filed.

22 10. In January 2021, the client filed the appeal pro se with a Statement of Good Cause for
23 Untimely Filing.

1 11. On August 24, 2021, the Appeals Council found “good reason” for the untimely filing
2 but denied the appeal on the merits.

3 III. STIPULATION TO MISCONDUCT

4 12. By making false statements to a client, Respondent violated RPC 1.4 and RPC 8.4(c).

5 13. By making false statements of material fact to a third person in the course of
6 representing a client, Respondent violated RPC 4.1 and RPC 8.4(c).

7 14. By failing to file the appeal in Cook’s disability matter, Respondent violated RPC 1.3
8 and RPC 3.2.

9 IV. APPLICATION OF ABA STANDARDS

10 15. The following American Bar Association Standards for Imposing Lawyer Sanctions
11 (1991 ed. & Feb. 1992 Supp.) apply to this case: see attached Appendix A.

12 16. Respondent acted knowingly in lying to the client and Hetrick.

13 17. Respondent was negligent in failing to file the client’s appeal.

14 18. Respondent’s false statements and neglect caused potential injury to the client where
15 the client could have lost their right to appeal.

16 19. Respondent’s false statements reflect poorly on the profession and diminish
17 confidence in the legal system.

18 20. The presumptive sanction for Respondent’s false statements is suspension.

19 21. The presumptive sanction for Respondent’s failure to file the appeal is reprimand.

20 22. The following aggravating factors apply under ABA Standard 9.22:

21 (b) dishonest or selfish motive;

22 (d) multiple offenses;

23 (i) substantial experience in the practice of law [licensed in Washington since 2011].

1 23. The following mitigating factors apply under ABA Standard 9.32:

2 (a) absence of a prior disciplinary record;

3 (e) full and free disclosure to disciplinary board or cooperative attitude toward
4 proceedings;

5 (f) remorse.

6 24. It is an additional mitigating factor that Respondent has agreed to resolve this matter
7 at an early stage of the proceedings.

8 25. A significant mitigating factor is the contribution this stipulation makes to the efficient
9 and effective operation of the lawyer discipline system considering the effect the COVID-19
10 public health emergency has had on disciplinary resources and the orderly processing of
11 disciplinary matters.

12 26. On balance, the aggravating and mitigating factors do not require a departure from the
13 presumptive sanction but warrant a short suspension.

14 **V. STIPULATED DISCIPLINE**

15 27. The parties stipulate that Respondent shall receive a 60-day suspension.

16 **VI. CONDITIONS OF REINSTATEMENT**

17 28. Reinstatement from suspension is conditioned on payment of costs and expenses, as
18 provided below.

19 **VII. CONDITIONS OF PROBATION**

20 29. Respondent will be subject to probation for a period of one year beginning when
21 Respondent is reinstated to the practice of law and shall comply with the specific probation terms
22 set forth below.

23 **Ethics School**

1 30. Respondent shall attend Ethics School by webinar (approximately 7.5 hours), or by
2 obtaining the recorded product, and to pay registration costs of \$150 plus applicable sales tax.
3 Respondent will receive all applicable approved CLE credits for time in attendance at the Ethics
4 School.

5 31. Attendance at Ethics School is in addition to and shall not fulfill any continuing legal
6 education (CLE) requirements set out in this stipulation.

7 32. Respondent shall contact the Ethics School Administrator, currently Chris Chang, at
8 (206) 727-8328 or chrisc@wsba.org, within 15 days of reinstatement to confirm enrollment in
9 Ethics School and related logistics.

10 33. Respondent shall complete the ethics school requirement by within 60 days of
11 reinstatement.

12 34. Respondent shall provide evidence of completion of ethics school to the Probation
13 Administrator no later than 30 days after the conclusion of the course. Proof of attendance shall
14 include the program brochure, evidence of payment, and a written statement that includes the date
15 and time of attendance.

16 35. The Ethics School administrator may respond to inquiries from the Probation
17 Administrator regarding Respondent's compliance with these conditions.

18 **Practice Management Consultation**

19 36. Respondent shall consult with Ann Guinn with respect to law office management.
20 Guinn can be reached at ann@annguinnconsulting.com and (253) 946-1896.

21 37. Respondent shall consult with Guinn to discuss and implement procedures concerning
22 some or all of the following issues:

- 23 • Dealing with clients and managing their expectations

- 1 • Calendaring/Docketing
- 2 • Time management
- 3 • Other issues as appropriate.

4 38. Respondent shall contact Guinn to schedule a consultation within 15 days of
5 reinstatement. The consultation shall take place no later than 30 days thereafter.

6 39. Respondent understands that Guinn may establish dates by which Respondent must
7 comply with recommendations made and for follow-up communication. Respondent agrees to
8 strictly comply with these dates. These subsequent contacts may be in person, email, or telephone,
9 at the sole discretion of Guinn.

10 40. Respondent authorizes Guinn to report immediately to the Probation Administrator
11 and/or ODC if Respondent fails to comply with any requirements or terms.

12 41. Respondent shall pay a flat fee of \$650 for Guinn's services.

13 42. Respondent agrees to respond promptly to all inquiries from Guinn and the Probation
14 Administrator regarding Respondent's compliance with the practice management requirements
15 described herein.

16 43. Failure to comply with a condition of probation listed herein may be grounds for
17 further disciplinary action under ELC 13.8(b).

18 **VIII. RESTITUTION**

19 44. No restitution is required by this stipulation.

20 **IX. COSTS AND EXPENSES**

21 45. In light of Respondent's willingness to resolve this matter by stipulation at an early
22 stage of the proceedings, Respondent shall pay attorney fees and administrative costs of \$750 in
23 accordance with ELC 13.9(i). The Association will seek a money judgment under ELC 13.9(l) if

1 these costs are not paid within 30 days of approval of this stipulation.

2 46. Reinstatement from suspension is conditioned on payment of costs.

3 X. VOLUNTARY AGREEMENT

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

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

11 XI. LIMITATIONS

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

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

20 51. This Stipulation results from the consideration of various factors by both parties,
21 including the benefits to both by promptly resolving this matter without the time and expense of
22 hearings, Disciplinary Board appeals, and Supreme Court appeals or petitions for review. As
23 such, approval of this Stipulation will not constitute precedent in determining the appropriate

1 sanction to be imposed in other cases; but, if approved, this Stipulation will be admissible in
2 subsequent proceedings against Respondent to the same extent as any other approved Stipulation.

3 52. Under ELC 9.1(d)(4), the Disciplinary Board reviews a stipulation based solely on the
4 record agreed to by the parties. Under ELC 3.1(b), all documents that form the record before the
5 Board for its review become public information on approval of the Stipulation by the Board,
6 unless disclosure is restricted by order or rule of law.

7 53. If this Stipulation is approved by the Disciplinary Board and Supreme Court, it will
8 be followed by the disciplinary action agreed to in this Stipulation. All notices required in the
9 Rules for Enforcement of Lawyer Conduct will be made. Respondent represents that, in addition
10 to Washington, Respondent also is admitted to practice law in the following jurisdictions, whether
11 current status is active, inactive, or suspended: United States District Court for the Western and
12 Eastern Districts of Washington.

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

17 WHEREFORE the undersigned being fully advised, adopt and agree to this Stipulation to
18 60-Day Suspension as set forth above.

19
20 Sara M. Herr-Waldroup

Sara M. Herr-Waldroup (Sep 28, 2022 17:25 PDT)

Sara M. Herr-Waldroup, Bar No. 43782
Respondent



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23 Henry Cruz, Bar No. 38799
Disciplinary Counsel

Dated: 09/28/2022

Dated: 09/28/2022

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APPENDIX A

ABA Standard 4.4 - Lack of Diligence

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.

ABA Standard 4.6 - Lack of Candor

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.

ABA Standard 7.0 - Violations of Duties Owed as a Professional

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

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

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

7.4 Admonition is generally appropriate when a lawyer engages in an isolated 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.







Stipulation to 60-Day Suspension(00816620)

Final Audit Report

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