

FILED

Apr 28, 2023

Disciplinary
Board

Docket # 025

DISCIPLINARY BOARD
WASHINGTON STATE BAR ASSOCIATION

Notice of Reprimand

Lawyer Josh Brumley, WSBA No. 49851, has been ordered Reprimanded by the following
attached documents: Stipulation to Two Reprimands, Order on Stipulation to Two Reprimands.

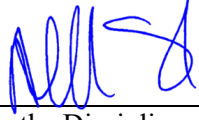
WASHINGTON STATE BAR ASSOCIATION

N. Gustine

Nicole Gustine
Counsel to the Disciplinary Board

CERTIFICATE OF SERVICE

I certify that I caused a copy of the Notice of Reprimand to be emailed to the Office of Disciplinary Counsel and to Respondent's Counsel Kevin M. Bank, at kevin@kevinbanklaw.com, on the 28th day of April, 2023.

A handwritten signature in blue ink, appearing to be 'M. Bank', is written above a horizontal line.

Clerk to the Disciplinary Board

FILED

Apr 25, 2023

Disciplinary
Board

Docket # 024

DISCIPLINARY BOARD
WASHINGTON STATE BAR ASSOCIATION

In re

JOSH BRUMLEY,

Lawyer (Bar No. 49851).

Proceeding No. 22#00034

ODC File Nos. 20-01477 and 21-01227

STIPULATION TO TWO REPRIMANDS

Under Rule 9.1 of the Washington Supreme Court's Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to Two Reprimands is entered into by the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through disciplinary counsel Henry Cruz, Respondent's Counsel Kevin M. Bank, and Respondent lawyer Josh Brumley.

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 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 Respondent. Respondent chooses to resolve this

1 proceeding now by entering into the following stipulation to facts, misconduct, and sanction to
2 avoid the 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 October 15,
5 2015.

6 II. STIPULATED FACTS

7 Background

8 2. Brumley is the principal of the Brumley Law Firm (Brumley's firm).

9 3. During the times relevant to this stipulation, Brumley's firm handled family, criminal,
10 business litigation, and personal injury cases.

11 4. Brumley's firm now handles only personal injury cases.

12 5. During the times relevant to this stipulation, which includes the COVID-19 pandemic,
13 Brumley's firm experienced significant staff turnover, with four different lawyers working for
14 Brumley at one time or another, along with a Limited License Legal Technician (LLLT) and
15 paralegals.

16 6. Many of the lawyers Brumley hired were new lawyers with little or no experience.

17 Morfitt Grievance

18 7. At all times relevant to this matter, Christine Camper, a LLLT, worked on the family
19 law matters for Brumley's firm and helped train the new lawyers who were hired to handle family
20 law cases.

21 8. The authority of a LLLT to file documents is set forth in APR 28(F) and Appendix
22 APR 28. What is permissible depends, among other things, on whether the document is an
23 approved form or, if not, whether the document is reviewed and approved by a Washington

1 lawyer. See APR 28(F)(6), (9). Among other things, LLLTs are not permitted to render legal
2 services in “major parenting plan modifications and nonparental custody actions beyond the
3 adequate cause hearing unless the terms are agreed to by the parties or one party defaults[.]”
4 Appendix APR 28, Regulation 2(B)(3)(ix).

5 9. In May 2019, Cora and Timothy Krouse Sr. (the Krouses) filed a petition for
6 nonparental custody of their minor grandchildren, who are the children of their son, Timothy
7 Krouse Jr., and Julie Brayton (Pierce County Superior Court No. 19-3-02047-3).

8 10. Lawyer Kelly Morfitt represented the Krouses.

9 11. On December 23, 2019, the court entered a Final Nonparent Custody Order in the
10 Brayton matter, awarding custody of the children to the Krouses and visitation to Brayton and
11 Krouse Jr.

12 12. In April 2020, Brumley hired Laura Tocheny, a month before Tocheny was admitted
13 to the Bar.

14 13. In May 2020, Brumley’s firm began representing Brayton in Pierce County Superior
15 Court No. 19-3-02047-3.

16 14. Although Brumley’s name was on the case, Camper handled most of the legal work
17 and client contact.

18 15. Brumley did not review some documents drafted by Camper that were filed in Pierce
19 County Superior Court No. 19-3-02047-3.

20 16. On June 9, 2020, Brumley’s firm filed a petition to modify/terminate the nonparental
21 custody order on behalf of Brayton. The petition was signed by Brayton.

22 17. On June 24, 2020, a court commissioner ruled that adequate cause was not required,
23 but there was no proof of service of the petition on the other parties. The commissioner ordered

1 | Brayton to serve all other parties and show proof of service for the court to proceed.

2 | 18. On July 24, 2020, a judge ruled that the petition still required proof of service and that
3 | adequate cause was required for the petition to proceed.

4 | 19. On August 26, 2020, the court dismissed the petition without prejudice due to failure
5 | to schedule an adequate cause hearing, which Brumley's firm did not immediately correct.

6 | 20. In September 2020, Brumley discussed the Brayton matter with Tocheny and Camper
7 | and agreed on a strategy to move to vacate the dismissal of the petition instead of refile the
8 | petition.

9 | 21. On December 1, 2020, Brayton, still represented by Brumley's firm, filed a petition
10 | and related documents in a new case seeking a parenting plan and residential schedule (Pierce
11 | County Superior Court No. 20-3-03680-2).

12 | 22. Brumley was not initially aware of the filings in Pierce County Superior Court No.
13 | 20-3-03680-2, nor was Brumley aware of the details of the interactions between Camper and
14 | Brayton that culminated in Brayton filing the new petition on December 1, 2020.

15 | 23. The petition bore the electronic signature of Tocheny dated November 23, 2020.

16 | 24. According to Tocheny, Tocheny did not write or sign the petition, did not file the
17 | petition, and did not authorize anyone to affix Tocheny's signature on the petition.

18 | 25. Anyone in Brumley's firm had access to Tocheny's electronic signature.

19 | 26. According to Tocheny, Camper filed the petition and affixed Tocheny's signature on
20 | the petition.

21 | 27. Camper was not authorized by the regulations relating to LLLTs to file the petition.

22 | 28. The petition was misleading in that it failed to disclose several key pieces of
23 | information, including that there was another case, No. 19-3-02047-3, that involved the children,

1 and that the Krouses already had custody of the children by virtue of a court order in that case.

2 29. Brumley's firm did not provide notice of the new petition to Morfitt or the Krouses.

3 30. On December 21, 2020, the court electronically approved and entered the parenting
4 plan Brayton sought in No. 20-3-03680-2 based on the "Parents' agreement."

5 31. The order bore Tocheny's signature dated November 23, 2020, but, according to
6 Tocheny, Tocheny did not sign the proposed order or authorize anyone to place Tocheny's
7 signature on the document.

8 32. On December 22, 2020, Brumley filed a notice of withdrawal in case No. 20-3-03680-
9 2, effective January 1, 2021.

10 33. On December 23, 2020, Morfitt learned of the orders entered in 20-3-03680-2 from
11 Cora Krouse, who had received a text from Brayton.

12 34. Morfitt, on behalf of the Krouses, filed a motion to consolidate the two cases and
13 vacate the orders entered 20-3-03680-2, along with a request for fees and sanctions.

14 35. Morfitt noted a hearing for December 30, 2020.

15 36. Brumley, whose withdrawal was not yet effective, was given notice of the hearing but
16 did not appear because Brumley was unavailable.

17 37. At this point, Brumley was aware of Pierce County Superior Court No. 20-3-03680-
18 2.

19 38. On December 29, 2020, Brumley's firm filed a notice of association for Tocheny in
20 case No. 20-3-03680-2, three days before Brumley's withdrawal was effective, but Tocheny did
21 not appear at the December 30, 2020 hearing.

22 39. At the December 30, 2020 hearing, the court stated that the orders entered in Case No.
23 19-3-02047-3 had priority over those entered in Case No. 20-3-03680-2 and ordered the children

1 returned to the Krouses, but required that Morfitt file a motion for the Krouses to intervene in
2 Case No. 20-3-03680-2 before it would take action under that case number.

3 40. The court imposed \$200 in sanctions against Brumley's firm for failure to appear.

4 41. Morfitt filed the motion to intervene on behalf of the Krouses.

5 42. In January 2021, Brumley instructed Tocheny to file motions for adequate cause and
6 to vacate the dismissal of the prior petition to terminate the nonparental custody order.

7 43. On January 11, 2021, Brumley's firm filed a notice of appearance for Tocheny on
8 behalf of Brayton in case No. 19-3-02047-3 and filed both motions.

9 44. On January 22, 2021, Brumley's firm filed a notice of appearance for Tocheny on
10 behalf of Brayton in case No. 20-3-03680-2.

11 45. The court held a hearing on January 29, 2021, at which Tocheny appeared for Brayton.

12 46. The court continued the motion to vacate but granted the motion to intervene, finding
13 as follows:

14 The intervenors are the Nonparent Custodians of the children who are the subject
15 matter of this case and the intervenors have a vested interest in this case. This
16 Petition was purposefully filed without proper notice to the intervenors and without
17 proper disclosures to the court. Since this case was finalized, intervention is granted
18 for the limited purpose of dismissing the Petition to Establish a Parenting Plan
19 under CR60(b).

20 47. The court also ordered Brumley to pay attorney fees, ruling as follows:

21 Attorney Fees for needing to file this Motion to Intervene is granted in the amount
22 of \$500. Mr. Brumley should have (1) notified the court of the existence of the
23 valid residential schedule in case number 19-3-02047-3, (2) notified the nonparent
24 custodians of this action, and (3) dismissed this Petition on his own volition. The
\$200 still owed by Mr. Brumley to Ms. Morfitt incurred by Mr. Brumley's failure
to appear in Ex Parte to address this matter before the Commissioner who signed
final orders in this case, plus the \$500 is hereby reduced to judgment with 12%
interest.

48. On February 15, 2021, Brayton fired Brumley's firm.

1 49. Shortly thereafter, Tocheny withdrew from representing Brayton in No. 20-3-03680-
2 2, and Brumley and Tocheny withdrew from representing Brayton in No. 19-3-02047-3.

3 50. On April 23, 2021, following a hearing, the court granted the motion to vacate the
4 final orders entered in December 2020 in No. 20-3-03680-2, including the parenting plan and
5 child support order, but denied the request for additional fees. The residential schedule
6 established in No. 19-3-02047-3 remained in place.

7 51. On or about May 18, 2022—after ODC issued its analysis letter in this matter—
8 Brumley paid Morfitt the \$200 in sanctions ordered on December 30, 2020, and the \$500 in
9 attorney fees ordered on January 29, 2021, but did not pay the court-ordered interest.

10 52. On November 21, 2022, after ODC filed the Formal Complaint in this matter, Brumley
11 paid \$108.12 in court-ordered interest.

12 **Sotebeer Grievance**

13 53. In June 2020, Brumley’s firm agreed to represent Malcolm Scott Sotebeer, Sotebeer’s
14 spouse, Gregory Davenport, and their cannabis company, Hempzen Enterprises (collectively, “the
15 clients”), in a lawsuit filed against them by Hempzen investors.

16 54. The fee agreement between Brumley and the clients states that Brumley’s firm would
17 assign a “primary licensed professional to the client,” who would be “primarily responsible to the
18 client’s case.”

19 55. In June 2020, Brumley filed the defendants’ answer and affirmative defenses.

20 56. In August 2020, Brumley hired Isabella Mazur, who had graduated from law school
21 in June 2020 but was not yet admitted to the Bar.

22 57. In early September 2020, Brumley assigned the Sotebeer case to Mazur.

23 58. Mazur had no prior experience working on business litigation matters, but Mazur was

1 being supervised by and working directly with Michael Reid, Sotebeer's prior lawyer in the
2 matter, including in drafting counterclaims against the Hempzen investors.

3 59. Brumley assumed Reid was providing the necessary guidance and supervision to
4 Mazur.

5 60. On September 16, 2020, Mazur, over Brumley's signature, filed an amended answer
6 and counterclaims, which included a counterclaim of defamation.

7 61. On September 22, 2020, Mazur was admitted to the Bar.

8 62. In October 2020, plaintiffs' counsel wrote Brumley stating that the answer and
9 counterclaims violated CR 11 and that counsel would seek sanctions unless they were dismissed.

10 63. In December 2020, plaintiffs' counsel served plaintiff's discovery requests on
11 Brumley's firm.

12 64. Plaintiff's discovery requests were due on January 18, 2021.

13 65. Brumley's firm did not respond to the discovery requests by January 18, 2021.

14 66. Mazur left Brumley's firm in January 2021 and agreed to take over the Sotebeer
15 matter.

16 67. On January 20, 2021, after Mazur left Brumley's firm, Brumley filed a notice of
17 withdrawal and substitution to make Mazur the attorney of record going forward.

18 68. On March 19, 2021, in ruling on plaintiffs' summary judgment motion, the court
19 dismissed the counterclaims and awarded sanctions of \$5,963.75 to plaintiffs under RCW
20 4.24.510 (Washington's anti-SLAPP law) based on the defamation counterclaim, which the
21 clients paid.

22 69. In April 2021, the clients hired new counsel, and eventually the case settled.
23

1 **III. STIPULATION TO MISCONDUCT**

2 70. By failing to make reasonable efforts to ensure that Brumley’s firm had in effect
3 measures giving reasonable assurance that the conduct of nonlawyer staff was compatible with
4 Brumley’s professional obligations, and/or by failing to make reasonable efforts to supervise
5 Camper’s handling of the Brayton matter to ensure that Camper’s conduct was compatible with
6 Brumley’s professional obligations, Brumley violated RPC 5.3 and RPC 5.10.

7 71. By failing to make reasonable efforts to ensure that Brumley’s firm had in effect
8 measures giving reasonable assurance that all lawyers in Brumley’s firm conformed to the RPC,
9 and/or by failing to make reasonable efforts to ensure that Mazur’s conduct conformed to the
10 RPC, Brumley violated RPC 5.1.

11 72. By failing to pay the sanctions and attorney fees the court imposed against Brumley
12 in the Brayton matters for over a year after they were ordered, and/or by failing to pay the court-
13 ordered interest, Brumley violated RPC 3.4(c), RPC 8.4(d), and 8.4(j).

14 **IV. PRIOR DISCIPLINE**

15 73. Respondent has no prior discipline.

16 **V. APPLICATION OF ABA STANDARDS**

17 74. The following American Bar Association Standards for Imposing Lawyer Sanctions
18 (1991 ed. & Feb. 1992 Supp.) apply to this case:

19 **ABA Standard 6.2 - Abuse of the Legal Process**

20 6.21 Disbarment is generally appropriate when a lawyer knowingly violates a court
21 order or rule with the intent to obtain a benefit for the lawyer or another, and causes
22 serious injury or potentially serious injury to a party or causes serious or
23 potentially serious interference with a legal proceeding.

22 6.22 Suspension is generally appropriate when a lawyer knows that he or she is
23 violating a court order or rule, and causes injury or potential injury to a client or a
24 party, or causes interference or potential interference with a legal proceeding.

1 6.23 Reprimand is generally appropriate when a lawyer negligently fails to comply with
2 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.

3 6.24 Admonition is generally appropriate when a lawyer engages in an isolated instance
4 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.

5 **ABA Standard 7.0 - Violations of Duties Owed as a Professional**

6 7.1 Disbarment is generally appropriate when a lawyer knowingly engages in conduct
7 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.

8 7.2 Suspension is generally appropriate when a lawyer knowingly engages in conduct
9 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.

10 7.3 Reprimand is generally appropriate when a lawyer negligently engages in conduct
11 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.

12 7.4 Admonition is generally appropriate when a lawyer engages in an isolated instance
13 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.

14 75. Respondent acted negligently in failing to supervise nonlawyer and lawyer staff.

15 76. Respondent's failure to supervise staff caused injury to clients and the court.

16 77. The presumptive sanction for Respondent's failure to supervise staff is reprimand
17 under ABA Standard 7.3.

18 78. Respondent acted knowingly in failing to pay the court-ordered sanctions and attorney
19 fees. "Knowing" is defined in the ABA Standards as "the conscious awareness of the nature of
20 the attendant circumstances without the conscious objective or purpose to accomplish a particular
21 result."

22 79. Respondent's failure to pay the sanctions and attorney fees caused injury to the
23 opposing party and the court.

24 80. The presumptive sanction for Respondent's failure to pay the court-ordered sanctions
and attorney fees is suspension under ABA Standard 6.22.

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

2 (d) multiple offenses.

3 82. The following mitigating factors apply under ABA Standard 9.32:

4 (a) absence of a prior disciplinary record;

5 (f) inexperience in the practice of law (admitted in 2015, misconduct started 2019); and

6 (k) imposition of other penalties or sanctions (\$700 plus interest in court-ordered sanctions
7 and attorney fees in the Brayton matter)

8 (l) remorse.

9 83. It is an additional mitigating factor that Respondent has agreed to resolve this matter
10 at an early stage of the proceedings.

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

15 85. Based on the factors set forth above, the presumptive sanction for failing to pay court
16 ordered sanctions and attorney fees should be mitigated to reprimand.

17 **VI. STIPULATED DISCIPLINE**

18 86. The parties stipulate that Respondent shall receive two reprimands.

19 **VII. CONDITIONS OF PROBATION**

20 87. Respondent shall be subject to probation for a period of 24 months beginning on the
21 date this stipulation receives final approval.

22 88. The conditions of probation are set forth below. Respondent's compliance with these
23 conditions will be monitored by the Probation Administrator of the Office of Disciplinary Counsel

1 (“Probation Administrator”). Failure to comply with a condition of probation listed herein may
2 be grounds for further disciplinary action under ELC 13.8(b).

3 **Practice Monitor**

4 89. During the period of probation, Respondent’s practice will be supervised by a practice
5 monitor. The practice monitor must be a WSBA member with no record of public discipline and
6 who is not the subject of a pending public disciplinary proceeding.

7 90. The role of the practice monitor is to consult with and provide guidance to Respondent
8 regarding case management, office management, and avoiding violations of the Rules of
9 Professional Conduct, and to provide reports and information to the Probation Administrator
10 regarding Respondent’s compliance with the terms of probation and the RPC. The practice
11 monitor does not represent the Respondent.

12 91. At the beginning of the probation period, the Probation Administrator will select a
13 lawyer to serve as practice monitor for the period of Respondent’s probation.

14 a) Initial Challenge: If, within 15 days of the written notice of the selection of a
15 practice monitor, Respondent sends a written request to the Probation
16 Administrator that another practice monitor be selected, the Probation
17 Administrator will select another practice monitor. Respondent need not identify
18 any basis for this initial request.

19 (b) Subsequent Challenges: If, after selection of a second (or subsequent)
20 practice monitor, Respondent believes there is good cause why that individual
21 should not serve as practice monitor, Respondent may, within 15 days of notice of
22 the selected practice monitor, send a written request to the Probation Administrator
23 asking that another practice monitor be selected. That request must articulate good

1 cause to support the request. If the Probation Administrator agrees, another
2 practice monitor will be selected. If the Probation Administrator disagrees, the
3 Office of Disciplinary Counsel will submit its proposed selection for practice
4 monitor to the Chair of the Disciplinary Board for appointment pursuant to ELC
5 13.8(a)(2), and will also provide the Chair with the Respondent's written request
6 that another practice monitor be selected.

7 92. In the event the practice monitor is no longer able to perform the practice monitor's
8 duties, the Probation Administrator will select a new practice monitor at the Probation
9 Administrator's discretion.

10 93. During the period of probation, Respondent must cooperate with the named practice
11 monitor. Respondent must meet with the practice monitor at least once per month. Respondent
12 must communicate with the practice monitor to schedule all required meetings.

13 94. The Respondent must bring to each meeting a current, complete written list of all
14 pending client legal matters being handled by the Respondent. The list must identify the current
15 status of each client matter and any problematic issues regarding each client matter. The list may
16 identify clients by using the client's initials rather than the client's name.

17 95. At each meeting, the practice monitor will discuss with Respondent practice issues
18 that have arisen or are anticipated. In light of the conduct giving rise to the imposition of
19 probation, ODC recommends that the practice monitor and Respondent discuss whether
20 Respondent is diligently making progress on each client matter, whether Respondent is in
21 communication with each client, whether Respondent has promptly billed each client, whether
22 Respondent's fee agreements are consistent with the RPC and are understandable to the client,
23 whether Respondent needs to consider withdrawing from any client matters, and whether

1 Respondent is properly supervising staff and subordinate lawyers. Meetings may be in person or
2 by telephone at the practice monitor's discretion. The practice monitor uses discretion in
3 determining the length of each meeting.

4 96. The practice monitor will provide the Probation Administrator with quarterly written
5 reports regarding Respondent's compliance with probation terms and the RPC. Each report must
6 include the date of each meeting with Respondent, a brief synopsis of the discussion topics, and
7 a brief description of any concerns the practice monitor has regarding the Respondent's
8 compliance with the RPC. The report must be signed by the practice monitor. Each report is due
9 within 30 days of the completion of the quarter.

10 97. If the practice monitor believes that Respondent is not complying with any of
11 Respondent's ethical duties under the RPC or if Respondent fails to schedule or attend a monthly
12 meeting, the practice monitor will promptly communicate that to the Probation Administrator.

13 98. Respondent must make payments totaling \$1,000 to the Washington State Bar
14 Association to defray the costs and expenses of administering the probation, as follows:

- 15 (a) \$250 due within 30 days of the start of the probation;
- 16 (b) \$250 due within 6 months of the start of the probation period;
- 17 (c) \$250 due within 12 months of the start of the probation period; and
- 18 (d) \$250 due within 18 months of the start of the probation period.

19 99. All payments should be provided to the Probation Administrator for processing.

20 **Ethics Consultation**

21 100. Respondent agrees to a one-hour ethics consultation with Mark Fucile regarding
22 the conduct giving rise to this grievance and compliance with the RPC. The consultation shall
23 occur by July 1, 2023. Within two weeks of this consultation, Respondent shall provide proof to

1 the Probation Administrator of the meeting in the form of a written statement that includes the
2 date, time, and a brief summary of the consultation.

3 101. Respondent agrees to pay all costs in connection with the ethics consultation.
4 Fucile's hourly rate is \$450. Respondent is responsible for timely paying all costs in connection
5 with the ethics consultation.

6 **Practice Management Assistance**

7 102. Respondent has recently consulted with Ann Guinn for one session with respect to
8 law office management. Respondent shall consult with Guinn for three more sessions on law
9 office management. Guinn can be reached at ann@annguinnconsulting.com and (253) 946-1896.

10 103. Respondent shall consult with Guinn to discuss and implement procedures
11 concerning some or all of the following issues:

12 (a) Dealing with clients and managing their expectations

13 (b) Fee agreements

14 (c) Staff communication and supervision

15 (d) Calendaring/Docketing

16 (e) Time management

17 (f) Office layout and organization

18 (g) Other issues as appropriate.

19 104. Respondent shall contact Guinn to schedule a consultation within 30 days from
20 approval of this stipulation. The consultation shall take place no later than 30 days thereafter.

21 105. Respondent understands that Guinn may establish dates by which Respondent
22 must comply with recommendations made and for follow-up communication. Respondent agrees
23 to strictly comply with these dates. These subsequent contacts may be in person, email, or

1 telephone, at the sole discretion of Guinn.

2 106. Respondent authorizes Guinn to report immediately to the Probation
3 Administrator and/or ODC if Respondent fails to comply with any requirements or terms.

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

5 108. Respondent agrees to respond promptly to all inquiries from Guinn and the
6 Probation Administrator regarding Respondent's compliance with the practice management
7 requirements described herein.

8 **VIII. RESTITUTION**

9 109. Respondent shall pay restitution in the amount of \$3,277.49 to Malcolm Scott
10 Sotebeer and/or the Lawyer's Fund for Client Protection, within 60 days of approval of this
11 stipulation.

12 **IX. COSTS AND EXPENSES**

13 110. In light of Respondent's willingness to resolve this matter by stipulation at an early
14 stage of the proceedings, Respondent shall pay attorney fees and administrative costs of \$750 in
15 accordance with ELC 13.9(i). The Association will seek a money judgment under ELC 13.9(1) if
16 these costs are not paid within 30 days of approval of this stipulation.

17 **X. VOLUNTARY AGREEMENT**

18 111. Respondent states that prior to entering into this Stipulation Respondent has
19 consulted independent legal counsel regarding this Stipulation, that Respondent is entering into
20 this Stipulation voluntarily, and that no promises or threats have been made by ODC, the
21 Association, nor by any representative thereof, to induce the Respondent to enter into this
22 Stipulation except as provided herein.

23 112. Once fully executed, this stipulation is a contract governed by the legal principles

1 applicable to contracts, and may not be unilaterally revoked or modified by either party.

2 **XI. LIMITATIONS**

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

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

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

17 116. Under ELC 3.1(b), all documents that form the record before the Hearing Officer
18 for Hearing Officer's review become public information on approval of the Stipulation by the
19 Hearing Officer, unless disclosure is restricted by order or rule of law.

20 117. If this Stipulation is approved by the Hearing Officer, it will be followed by the
21 disciplinary action agreed to in this Stipulation. All notices required in the Rules for
22 Enforcement of Lawyer Conduct will be made. Respondent represents that, in addition to
23 Washington, Respondent also is admitted to practice law in the following jurisdictions, whether

1 current status is active, inactive, or suspended: none.

2 118. If this Stipulation is not approved by the Hearing Officer, this Stipulation will have
3 no force or effect, and neither it nor the fact of its execution will be admissible as evidence in the
4 pending disciplinary proceeding, in any subsequent disciplinary proceeding, or in any civil or
5 criminal action.


6 WHEREFORE the undersigned being fully advised, adopt and agree to this Stipulation to
7 Two Reprimands as set forth above.

8
9 
10 _____
11 Josh Brumley, Bar No. 49851
12 Respondent

Dated: 4/25/2023

11 
12 _____
13 Kevin M. Bank, Bar No. 28935
14 Counsel for Respondent

Dated: 4/25/2023

14 
15 _____
16 Henry Cruz, Bar No. 38799
17 Disciplinary Counsel

Dated: 04/25/2023

FILED

Apr 28, 2023

Disciplinary
Board

Docket # 025

DISCIPLINARY BOARD
WASHINGTON STATE BAR ASSOCIATION

Notice of Reprimand

Lawyer Josh Brumley, WSBA No. 9511 as been ordered Reprimanded by the following
attached documents: Stipulation to Two Reprimands, Order on Stipulation to Two Reprimands.

WASHINGTON STATE BAR ASSOCIATION



Nicole Gustine
Counsel to the Disciplinary Board

CERTIFICATE OF SERVICE

I certify that I caused a copy of the Notice of Reprimand to be emailed to the Office of Disciplinary Counsel and to Respondent's Counsel Kevin M. Bank, at kevin@kevinbanklaw.com, on the 28th day of April, 2023.

A handwritten signature in blue ink, appearing to be "Allard", is written above a horizontal line.

Clerk to the Disciplinary Board

FILED

Apr 25, 2023

Disciplinary
Board

Docket # 023

DISCIPLINARY BOARD
WASHINGTON STATE BAR ASSOCIATION

In re

Josh Brumley,
Lawyer (Bar No. 49851).

Proceeding No. 22#00034

ORDER ON STIPULATION TO TWO
REPRIMANDS

On review of the April 25, 2023 Stipulation to Two Reprimands and the documents on file in this matter,

IT IS ORDERED that the April 25, 2023 Stipulation to Two Reprimands is approved.

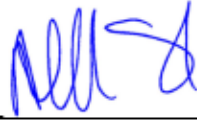
Dated this 25th day of April, 2023.



—
Diana Marie Dearmin
Hearing Officer

CERTIFICATE OF SERVICE

I certify that I caused a copy of the Order on Stipulation to Two Reprimands to be emailed to the Office of Disciplinary Counsel and to Respondent's Counsel Kevin M. Bank, at kevin@kevinbanklaw.com, on the 25th day of April, 2023.



Clerk to the Disciplinary Board

FILED

Apr 25, 2023

Disciplinary
Board

Docket # 024

DISCIPLINARY BOARD
WASHINGTON STATE BAR ASSOCIATION

In re

JOSH BRUMLEY,
Lawyer (Bar No. 49851).

Proceeding No. 22#00034

ODC File Nos. 20-01477 and 21-01227

STIPULATION TO TWO REPRIMANDS

Under Rule 9.1 of the Washington Supreme Court's Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to Two Reprimands is entered into by the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through disciplinary counsel Henry Cruz, Respondent's Counsel Kevin M. Bank, and Respondent lawyer Josh Brumley.

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 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 Respondent. Respondent chooses to resolve this

1 proceeding now by entering into the following stipulation to facts, misconduct, and sanction to
2 avoid the 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 October 15,
5 2015.

6 II. STIPULATED FACTS

7 Background

8 2. Brumley is the principal of the Brumley Law Firm (Brumley's firm).

9 3. During the times relevant to this stipulation, Brumley's firm handled family, criminal,
10 business litigation, and personal injury cases.

11 4. Brumley's firm now handles only personal injury cases.

12 5. During the times relevant to this stipulation, which includes the COVID-19 pandemic,
13 Brumley's firm experienced significant staff turnover, with four different lawyers working for
14 Brumley at one time or another, along with a Limited License Legal Technician (LLLT) and
15 paralegals.

16 6. Many of the lawyers Brumley hired were new lawyers with little or no experience.

17 Morfitt Grievance

18 7. At all times relevant to this matter, Christine Camper, a LLLT, worked on the family
19 law matters for Brumley's firm and helped train the new lawyers who were hired to handle family
20 law cases.

21 8. The authority of a LLLT to file documents is set forth in APR 28(F) and Appendix
22 APR 28. What is permissible depends, among other things, on whether the document is an
23 approved form or, if not, whether the document is reviewed and approved by a Washington

1 lawyer. See APR 28(F)(6), (9). Among other things, LLLTs are not permitted to render legal
2 services in “major parenting plan modifications and nonparental custody actions beyond the
3 adequate cause hearing unless the terms are agreed to by the parties or one party defaults[.]”
4 Appendix APR 28, Regulation 2(B)(3)(ix).

5 9. In May 2019, Cora and Timothy Krouse Sr. (the Krouses) filed a petition for
6 nonparental custody of their minor grandchildren, who are the children of their son, Timothy
7 Krouse Jr., and Julie Brayton (Pierce County Superior Court No. 19-3-02047-3).

8 10. Lawyer Kelly Morfitt represented the Krouses.

9 11. On December 23, 2019, the court entered a Final Nonparent Custody Order in the
10 Brayton matter, awarding custody of the children to the Krouses and visitation to Brayton and
11 Krouse Jr.

12 12. In April 2020, Brumley hired Laura Tocheny, a month before Tocheny was admitted
13 to the Bar.

14 13. In May 2020, Brumley’s firm began representing Brayton in Pierce County Superior
15 Court No. 19-3-02047-3.

16 14. Although Brumley’s name was on the case, Camper handled most of the legal work
17 and client contact.

18 15. Brumley did not review some documents drafted by Camper that were filed in Pierce
19 County Superior Court No. 19-3-02047-3.

20 16. On June 9, 2020, Brumley’s firm filed a petition to modify/terminate the nonparental
21 custody order on behalf of Brayton. The petition was signed by Brayton.

22 17. On June 24, 2020, a court commissioner ruled that adequate cause was not required,
23 but there was no proof of service of the petition on the other parties. The commissioner ordered

1 Brayton to serve all other parties and show proof of service for the court to proceed.

2 18. On July 24, 2020, a judge ruled that the petition still required proof of service and that
3 adequate cause was required for the petition to proceed.

4 19. On August 26, 2020, the court dismissed the petition without prejudice due to failure
5 to schedule an adequate cause hearing, which Brumley's firm did not immediately correct.

6 20. In September 2020, Brumley discussed the Brayton matter with Tocheny and Camper
7 and agreed on a strategy to move to vacate the dismissal of the petition instead of refile the
8 petition.

9 21. On December 1, 2020, Brayton, still represented by Brumley's firm, filed a petition
10 and related documents in a new case seeking a parenting plan and residential schedule (Pierce
11 County Superior Court No. 20-3-03680-2).

12 22. Brumley was not initially aware of the filings in Pierce County Superior Court No.
13 20-3-03680-2, nor was Brumley aware of the details of the interactions between Camper and
14 Brayton that culminated in Brayton filing the new petition on December 1, 2020.

15 23. The petition bore the electronic signature of Tocheny dated November 23, 2020.

16 24. According to Tocheny, Tocheny did not write or sign the petition, did not file the
17 petition, and did not authorize anyone to affix Tocheny's signature on the petition.

18 25. Anyone in Brumley's firm had access to Tocheny's electronic signature.

19 26. According to Tocheny, Camper filed the petition and affixed Tocheny's signature on
20 the petition.

21 27. Camper was not authorized by the regulations relating to LLLTs to file the petition.

22 28. The petition was misleading in that it failed to disclose several key pieces of
23 information, including that there was another case, No. 19-3-02047-3, that involved the children,

1 and that the Krouses already had custody of the children by virtue of a court order in that case.

2 29. Brumley's firm did not provide notice of the new petition to Morfitt or the Krouses.

3 30. On December 21, 2020, the court electronically approved and entered the parenting
4 plan Brayton sought in No. 20-3-03680-2 based on the "Parents' agreement."

5 31. The order bore Tocheny's signature dated November 23, 2020, but, according to
6 Tocheny, Tocheny did not sign the proposed order or authorize anyone to place Tocheny's
7 signature on the document.

8 32. On December 22, 2020, Brumley filed a notice of withdrawal in case No. 20-3-03680-
9 2, effective January 1, 2021.

10 33. On December 23, 2020, Morfitt learned of the orders entered in 20-3-03680-2 from
11 Cora Krouse, who had received a text from Brayton.

12 34. Morfitt, on behalf of the Krouses, filed a motion to consolidate the two cases and
13 vacate the orders entered 20-3-03680-2, along with a request for fees and sanctions.

14 35. Morfitt noted a hearing for December 30, 2020.

15 36. Brumley, whose withdrawal was not yet effective, was given notice of the hearing but
16 did not appear because Brumley was unavailable.

17 37. At this point, Brumley was aware of Pierce County Superior Court No. 20-3-03680-
18 2.

19 38. On December 29, 2020, Brumley's firm filed a notice of association for Tocheny in
20 case No. 20-3-03680-2, three days before Brumley's withdrawal was effective, but Tocheny did
21 not appear at the December 30, 2020 hearing.

22 39. At the December 30, 2020 hearing, the court stated that the orders entered in Case No.
23 19-3-02047-3 had priority over those entered in Case No. 20-3-03680-2 and ordered the children

1 returned to the Krouses, but required that Morfitt file a motion for the Krouses to intervene in
2 Case No. 20-3-03680-2 before it would take action under that case number.

3 40. The court imposed \$200 in sanctions against Brumley's firm for failure to appear.

4 41. Morfitt filed the motion to intervene on behalf of the Krouses.

5 42. In January 2021, Brumley instructed Tocheny to file motions for adequate cause and
6 to vacate the dismissal of the prior petition to terminate the nonparental custody order.

7 43. On January 11, 2021, Brumley's firm filed a notice of appearance for Tocheny on
8 behalf of Brayton in case No. 19-3-02047-3 and filed both motions.

9 44. On January 22, 2021, Brumley's firm filed a notice of appearance for Tocheny on
10 behalf of Brayton in case No. 20-3-03680-2.

11 45. The court held a hearing on January 29, 2021, at which Tocheny appeared for Brayton.

12 46. The court continued the motion to vacate but granted the motion to intervene, finding
13 as follows:

14 The intervenors are the Nonparent Custodians of the children who are the subject
15 matter of this case and the intervenors have a vested interest in this case. This
16 Petition was purposefully filed without proper notice to the intervenors and without
17 proper disclosures to the court. Since this case was finalized, intervention is granted
18 for the limited purpose of dismissing the Petition to Establish a Parenting Plan
19 under CR60(b).

20 47. The court also ordered Brumley to pay attorney fees, ruling as follows:

21 Attorney Fees for needing to file this Motion to Intervene is granted in the amount
22 of \$500. Mr. Brumley should have (1) notified the court of the existence of the
23 valid residential schedule in case number 19-3-02047-3, (2) notified the nonparent
24 custodians of this action, and (3) dismissed this Petition on his own volition. The
\$200 still owed by Mr. Brumley to Ms. Morfitt incurred by Mr. Brumley's failure
to appear in Ex Parte to address this matter before the Commissioner who signed
final orders in this case, plus the \$500 is hereby reduced to judgment with 12%
interest.

48. On February 15, 2021, Brayton fired Brumley's firm.

1 49. Shortly thereafter, Tocheny withdrew from representing Brayton in No. 20-3-03680-
2 2, and Brumley and Tocheny withdrew from representing Brayton in No. 19-3-02047-3.

3 50. On April 23, 2021, following a hearing, the court granted the motion to vacate the
4 final orders entered in December 2020 in No. 20-3-03680-2, including the parenting plan and
5 child support order, but denied the request for additional fees. The residential schedule
6 established in No. 19-3-02047-3 remained in place.

7 51. On or about May 18, 2022—after ODC issued its analysis letter in this matter—
8 Brumley paid Morfitt the \$200 in sanctions ordered on December 30, 2020, and the \$500 in
9 attorney fees ordered on January 29, 2021, but did not pay the court-ordered interest.

10 52. On November 21, 2022, after ODC filed the Formal Complaint in this matter, Brumley
11 paid \$108.12 in court-ordered interest.

12 **Sotebeer Grievance**

13 53. In June 2020, Brumley’s firm agreed to represent Malcolm Scott Sotebeer, Sotebeer’s
14 spouse, Gregory Davenport, and their cannabis company, Hempzen Enterprises (collectively, “the
15 clients”), in a lawsuit filed against them by Hempzen investors.

16 54. The fee agreement between Brumley and the clients states that Brumley’s firm would
17 assign a “primary licensed professional to the client,” who would be “primarily responsible to the
18 client’s case.”

19 55. In June 2020, Brumley filed the defendants’ answer and affirmative defenses.

20 56. In August 2020, Brumley hired Isabella Mazur, who had graduated from law school
21 in June 2020 but was not yet admitted to the Bar.

22 57. In early September 2020, Brumley assigned the Sotebeer case to Mazur.

23 58. Mazur had no prior experience working on business litigation matters, but Mazur was

1 being supervised by and working directly with Michael Reid, Sotebeer's prior lawyer in the
2 matter, including in drafting counterclaims against the Hempzen investors.

3 59. Brumley assumed Reid was providing the necessary guidance and supervision to
4 Mazur.

5 60. On September 16, 2020, Mazur, over Brumley's signature, filed an amended answer
6 and counterclaims, which included a counterclaim of defamation.

7 61. On September 22, 2020, Mazur was admitted to the Bar.

8 62. In October 2020, plaintiffs' counsel wrote Brumley stating that the answer and
9 counterclaims violated CR 11 and that counsel would seek sanctions unless they were dismissed.

10 63. In December 2020, plaintiffs' counsel served plaintiff's discovery requests on
11 Brumley's firm.

12 64. Plaintiff's discovery requests were due on January 18, 2021.

13 65. Brumley's firm did not respond to the discovery requests by January 18, 2021.

14 66. Mazur left Brumley's firm in January 2021 and agreed to take over the Sotebeer
15 matter.

16 67. On January 20, 2021, after Mazur left Brumley's firm, Brumley filed a notice of
17 withdrawal and substitution to make Mazur the attorney of record going forward.

18 68. On March 19, 2021, in ruling on plaintiffs' summary judgment motion, the court
19 dismissed the counterclaims and awarded sanctions of \$5,963.75 to plaintiffs under RCW
20 4.24.510 (Washington's anti-SLAPP law) based on the defamation counterclaim, which the
21 clients paid.

22 69. In April 2021, the clients hired new counsel, and eventually the case settled.
23

1 **III. STIPULATION TO MISCONDUCT**

2 70. By failing to make reasonable efforts to ensure that Brumley’s firm had in effect
3 measures giving reasonable assurance that the conduct of nonlawyer staff was compatible with
4 Brumley’s professional obligations, and/or by failing to make reasonable efforts to supervise
5 Camper’s handling of the Brayton matter to ensure that Camper’s conduct was compatible with
6 Brumley’s professional obligations, Brumley violated RPC 5.3 and RPC 5.10.

7 71. By failing to make reasonable efforts to ensure that Brumley’s firm had in effect
8 measures giving reasonable assurance that all lawyers in Brumley’s firm conformed to the RPC,
9 and/or by failing to make reasonable efforts to ensure that Mazur’s conduct conformed to the
10 RPC, Brumley violated RPC 5.1.

11 72. By failing to pay the sanctions and attorney fees the court imposed against Brumley
12 in the Brayton matters for over a year after they were ordered, and/or by failing to pay the court-
13 ordered interest, Brumley violated RPC 3.4(c), RPC 8.4(d), and 8.4(j).

14 **IV. PRIOR DISCIPLINE**

15 73. Respondent has no prior discipline.

16 **V. APPLICATION OF ABA STANDARDS**

17 74. The following American Bar Association Standards for Imposing Lawyer Sanctions
18 (1991 ed. & Feb. 1992 Supp.) apply to this case:

19 **ABA Standard 6.2 - Abuse of the Legal Process**

20 6.21 Disbarment is generally appropriate when a lawyer knowingly violates a court
21 order or rule with the intent to obtain a benefit for the lawyer or another, and causes
22 serious injury or potentially serious injury to a party or causes serious or
23 potentially serious interference with a legal proceeding.

22 6.22 Suspension is generally appropriate when a lawyer knows that he or she is
23 violating a court order or rule, and causes injury or potential injury to a client or a
24 party, or causes interference or potential interference with a legal proceeding.

1 6.23 Reprimand is generally appropriate when a lawyer negligently fails to comply with
2 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.

3 6.24 Admonition is generally appropriate when a lawyer engages in an isolated instance
4 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.

5 **ABA Standard 7.0 - Violations of Duties Owed as a Professional**

6 7.1 Disbarment is generally appropriate when a lawyer knowingly engages in conduct
7 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.

8 7.2 Suspension is generally appropriate when a lawyer knowingly engages in conduct
9 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.

10 7.3 Reprimand is generally appropriate when a lawyer negligently engages in conduct
11 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.

12 7.4 Admonition is generally appropriate when a lawyer engages in an isolated instance
13 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.

14 75. Respondent acted negligently in failing to supervise nonlawyer and lawyer staff.

15 76. Respondent's failure to supervise staff caused injury to clients and the court.

16 77. The presumptive sanction for Respondent's failure to supervise staff is reprimand
17 under ABA Standard 7.3.

18 78. Respondent acted knowingly in failing to pay the court-ordered sanctions and attorney
19 fees. "Knowing" is defined in the ABA Standards as "the conscious awareness of the nature of
20 the attendant circumstances without the conscious objective or purpose to accomplish a particular
21 result."

22 79. Respondent's failure to pay the sanctions and attorney fees caused injury to the
23 opposing party and the court.

24 80. The presumptive sanction for Respondent's failure to pay the court-ordered sanctions
and attorney fees is suspension under ABA Standard 6.22.

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

2 (d) multiple offenses.

3 82. The following mitigating factors apply under ABA Standard 9.32:

4 (a) absence of a prior disciplinary record;

5 (f) inexperience in the practice of law (admitted in 2015, misconduct started 2019); and

6 (k) imposition of other penalties or sanctions (\$700 plus interest in court-ordered sanctions
7 and attorney fees in the Brayton matter)

8 (l) remorse.

9 83. It is an additional mitigating factor that Respondent has agreed to resolve this matter
10 at an early stage of the proceedings.

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

15 85. Based on the factors set forth above, the presumptive sanction for failing to pay court
16 ordered sanctions and attorney fees should be mitigated to reprimand.

17 VI. STIPULATED DISCIPLINE

18 86. The parties stipulate that Respondent shall receive two reprimands.

19 VII. CONDITIONS OF PROBATION

20 87. Respondent shall be subject to probation for a period of 24 months beginning on the
21 date this stipulation receives final approval.

22 88. The conditions of probation are set forth below. Respondent's compliance with these
23 conditions will be monitored by the Probation Administrator of the Office of Disciplinary Counsel

1 (“Probation Administrator”). Failure to comply with a condition of probation listed herein may
2 be grounds for further disciplinary action under ELC 13.8(b).

3 **Practice Monitor**

4 89. During the period of probation, Respondent’s practice will be supervised by a practice
5 monitor. The practice monitor must be a WSBA member with no record of public discipline and
6 who is not the subject of a pending public disciplinary proceeding.

7 90. The role of the practice monitor is to consult with and provide guidance to Respondent
8 regarding case management, office management, and avoiding violations of the Rules of
9 Professional Conduct, and to provide reports and information to the Probation Administrator
10 regarding Respondent’s compliance with the terms of probation and the RPC. The practice
11 monitor does not represent the Respondent.

12 91. At the beginning of the probation period, the Probation Administrator will select a
13 lawyer to serve as practice monitor for the period of Respondent’s probation.

14 a) **Initial Challenge**: If, within 15 days of the written notice of the selection of a
15 practice monitor, Respondent sends a written request to the Probation
16 Administrator that another practice monitor be selected, the Probation
17 Administrator will select another practice monitor. Respondent need not identify
18 any basis for this initial request.

19 (b) **Subsequent Challenges**: If, after selection of a second (or subsequent)
20 practice monitor, Respondent believes there is good cause why that individual
21 should not serve as practice monitor, Respondent may, within 15 days of notice of
22 the selected practice monitor, send a written request to the Probation Administrator
23 asking that another practice monitor be selected. That request must articulate good

1 cause to support the request. If the Probation Administrator agrees, another
2 practice monitor will be selected. If the Probation Administrator disagrees, the
3 Office of Disciplinary Counsel will submit its proposed selection for practice
4 monitor to the Chair of the Disciplinary Board for appointment pursuant to ELC
5 13.8(a)(2), and will also provide the Chair with the Respondent's written request
6 that another practice monitor be selected.

7 92. In the event the practice monitor is no longer able to perform the practice monitor's
8 duties, the Probation Administrator will select a new practice monitor at the Probation
9 Administrator's discretion.

10 93. During the period of probation, Respondent must cooperate with the named practice
11 monitor. Respondent must meet with the practice monitor at least once per month. Respondent
12 must communicate with the practice monitor to schedule all required meetings.

13 94. The Respondent must bring to each meeting a current, complete written list of all
14 pending client legal matters being handled by the Respondent. The list must identify the current
15 status of each client matter and any problematic issues regarding each client matter. The list may
16 identify clients by using the client's initials rather than the client's name.

17 95. At each meeting, the practice monitor will discuss with Respondent practice issues
18 that have arisen or are anticipated. In light of the conduct giving rise to the imposition of
19 probation, ODC recommends that the practice monitor and Respondent discuss whether
20 Respondent is diligently making progress on each client matter, whether Respondent is in
21 communication with each client, whether Respondent has promptly billed each client, whether
22 Respondent's fee agreements are consistent with the RPC and are understandable to the client,
23 whether Respondent needs to consider withdrawing from any client matters, and whether

1 Respondent is properly supervising staff and subordinate lawyers. Meetings may be in person or
2 by telephone at the practice monitor's discretion. The practice monitor uses discretion in
3 determining the length of each meeting.

4 96. The practice monitor will provide the Probation Administrator with quarterly written
5 reports regarding Respondent's compliance with probation terms and the RPC. Each report must
6 include the date of each meeting with Respondent, a brief synopsis of the discussion topics, and
7 a brief description of any concerns the practice monitor has regarding the Respondent's
8 compliance with the RPC. The report must be signed by the practice monitor. Each report is due
9 within 30 days of the completion of the quarter.

10 97. If the practice monitor believes that Respondent is not complying with any of
11 Respondent's ethical duties under the RPC or if Respondent fails to schedule or attend a monthly
12 meeting, the practice monitor will promptly communicate that to the Probation Administrator.

13 98. Respondent must make payments totaling \$1,000 to the Washington State Bar
14 Association to defray the costs and expenses of administering the probation, as follows:

- 15 (a) \$250 due within 30 days of the start of the probation;
- 16 (b) \$250 due within 6 months of the start of the probation period;
- 17 (c) \$250 due within 12 months of the start of the probation period; and
- 18 (d) \$250 due within 18 months of the start of the probation period.

19 99. All payments should be provided to the Probation Administrator for processing.

20 **Ethics Consultation**

21 100. Respondent agrees to a one-hour ethics consultation with Mark Fucile regarding
22 the conduct giving rise to this grievance and compliance with the RPC. The consultation shall
23 occur by July 1, 2023. Within two weeks of this consultation, Respondent shall provide proof to

1 the Probation Administrator of the meeting in the form of a written statement that includes the
2 date, time, and a brief summary of the consultation.

3 101. Respondent agrees to pay all costs in connection with the ethics consultation.
4 Fucile's hourly rate is \$450. Respondent is responsible for timely paying all costs in connection
5 with the ethics consultation.

6 **Practice Management Assistance**

7 102. Respondent has recently consulted with Ann Guinn for one session with respect to
8 law office management. Respondent shall consult with Guinn for three more sessions on law
9 office management. Guinn can be reached at ann@annguinconsulting.com and (253) 946-1896.

10 103. Respondent shall consult with Guinn to discuss and implement procedures
11 concerning some or all of the following issues:

12 (a) Dealing with clients and managing their expectations

13 (b) Fee agreements

14 (c) Staff communication and supervision

15 (d) Calendaring/Docketing

16 (e) Time management

17 (f) Office layout and organization

18 (g) Other issues as appropriate.

19 104. Respondent shall contact Guinn to schedule a consultation within 30 days from
20 approval of this stipulation. The consultation shall take place no later than 30 days thereafter.

21 105. Respondent understands that Guinn may establish dates by which Respondent
22 must comply with recommendations made and for follow-up communication. Respondent agrees
23 to strictly comply with these dates. These subsequent contacts may be in person, email, or

1 telephone, at the sole discretion of Guinn.

2 106. Respondent authorizes Guinn to report immediately to the Probation
3 Administrator and/or ODC if Respondent fails to comply with any requirements or terms.

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

5 108. Respondent agrees to respond promptly to all inquiries from Guinn and the
6 Probation Administrator regarding Respondent's compliance with the practice management
7 requirements described herein.

8 **VIII. RESTITUTION**

9 109. Respondent shall pay restitution in the amount of \$3,277.49 to Malcolm Scott
10 Sotebeer and/or the Lawyer's Fund for Client Protection, within 60 days of approval of this
11 stipulation.

12 **IX. COSTS AND EXPENSES**

13 110. In light of Respondent's willingness to resolve this matter by stipulation at an early
14 stage of the proceedings, Respondent shall pay attorney fees and administrative costs of \$750 in
15 accordance with ELC 13.9(i). The Association will seek a money judgment under ELC 13.9(l) if
16 these costs are not paid within 30 days of approval of this stipulation.

17 **X. VOLUNTARY AGREEMENT**

18 111. Respondent states that prior to entering into this Stipulation Respondent has
19 consulted independent legal counsel regarding this Stipulation, that Respondent is entering into
20 this Stipulation voluntarily, and that no promises or threats have been made by ODC, the
21 Association, nor by any representative thereof, to induce the Respondent to enter into this
22 Stipulation except as provided herein.

23 112. Once fully executed, this stipulation is a contract governed by the legal principles

1 applicable to contracts, and may not be unilaterally revoked or modified by either party.

2 XI. LIMITATIONS

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

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

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

17 116. Under ELC 3.1(b), all documents that form the record before the Hearing Officer
18 for Hearing Officer's review become public information on approval of the Stipulation by the
19 Hearing Officer, unless disclosure is restricted by order or rule of law.

20 117. If this Stipulation is approved by the Hearing Officer, it will be followed by the
21 disciplinary action agreed to in this Stipulation. All notices required in the Rules for
22 Enforcement of Lawyer Conduct will be made. Respondent represents that, in addition to
23 Washington, Respondent also is admitted to practice law in the following jurisdictions, whether


1 current status is active, inactive, or suspended: none.

2 118. If this Stipulation is not approved by the Hearing Officer, this Stipulation will have
3 no force or effect, and neither it nor the fact of its execution will be admissible as evidence in the
4 pending disciplinary proceeding, in any subsequent disciplinary proceeding, or in any civil or
5 criminal action.


6 WHEREFORE the undersigned being fully advised, adopt and agree to this Stipulation to
7 Two Reprimands as set forth above.

8
9 
10 Josh Brumley, Bar No. 49851
11 Respondent

Dated: 4/25/2023

12 
13 Kevin M. Bank, Bar No. 28935
14 Counsel for Respondent

Dated: 4/25/2023

15 
16 Henry Cruz, Bar No. 38799
17 Disciplinary Counsel

Dated: 04/25/2023