

**FILED**

Mar 22, 2022

**Disciplinary  
Board**

Docket # 001

DISCIPLINARY BOARD  
WASHINGTON STATE BAR ASSOCIATION

In re

**ROBERT S. MCKAY,**

Lawyer (Bar No. 19667).

Proceeding No. 22#00015

ODC File Nos. 21-01308

21-00159

21-00834

21-01171

Resignation Form of Robert S. McKay (ELC  
9.3(b))

I, Robert S. McKay, declare as follows:

1. I am over the age of eighteen years and am competent. I make the statements in this declaration from personal knowledge.
2. I was admitted to practice law in the State of Washington on June 13, 1990.
3. After consulting with my counsel, Kurt Bulmer, I have voluntarily decided to resign from the Washington State Bar Association (the Association) in Lieu of Discipline under Rule 9.3 of the Washington Supreme Court's Rules for Enforcement of Lawyer Conduct (ELC).
4. Attached hereto as Exhibit A is Disciplinary Counsel's statement of alleged

1 misconduct for purposes of ELC 9.3(b). I am aware of the alleged misconduct stated in  
2 Disciplinary Counsel's statement, but rather than defend against the allegations, I wish to  
3 permanently resign from membership in the Association. Although I am choosing not to defend,  
4 I dispute the accuracy of the attached Exhibit A - Statement of Alleged Misconduct, and I deny  
5 any misconduct.

6 5. I consent to entry of an order under ELC 13.9(e) assessing expenses of \$1,500 in  
7 this matter.

8 6. I agree to pay any additional costs or restitution that may be ordered by a Review  
9 Committee under ELC 9.3(g).

10 7. I understand that my resignation is permanent and that any future application by me  
11 for reinstatement as a member of the Association is currently barred. If the Washington Supreme  
12 Court changes this rule or an application is otherwise permitted in the future, it will be treated as  
13 an application by one who has been disbarred for ethical misconduct. If I file an application, I  
14 will not be entitled to a reconsideration or reexamination of the facts, complaints, allegations, or  
15 instances of alleged misconduct on which this resignation was based.

16 8. I agree to (a) notify all other states and jurisdictions in which I am admitted of this  
17 resignation in lieu of discipline; (b) seek to resign permanently from the practice of law in any  
18 other such state or jurisdiction; and (c) provide Disciplinary Counsel with copies of this  
19 notification and any response(s). I acknowledge that this resignation could be treated as a  
20 disbarment by all other jurisdictions.

21 9. I agree to (a) notify all other professional licensing agencies in any jurisdiction from  
22 which I have a professional license that is predicated on my admission to practice law of this  
23 resignation in lieu of discipline; (b) seek to resign permanently from any such license; and (c)

1 provide disciplinary counsel with copies of any of these notifications and any responses.

2 10. I agree that when applying for any employment, I will disclose the resignation in  
3 lieu of discipline in response to any question regarding disciplinary action or the status of my  
4 license to practice law.

5 11. I understand that my resignation becomes effective on Disciplinary Counsel's  
6 endorsement and filing of this document with the Clerk, and that under ELC 9.3(c) Disciplinary  
7 Counsel must do so promptly following receipt of this document.

8 12. When my resignation becomes effective, I agree to be subject to all restrictions that  
9 apply to a disbarred lawyer.

10 13. Upon filing of my resignation, I agree to comply with the same duties as a disbarred  
11 lawyer under ELC 14.1 through ELC 14.4.

12 14. I understand that, after my resignation becomes effective, it is permanent. I will  
13 never be eligible to apply and will not be considered for admission or reinstatement to the practice  
14 of law nor will I be eligible for admission for any limited practice of law.

15 15. I certify under penalty of perjury under the laws of the State of Washington that the  
16 foregoing is true and correct.

17 3/17/22 Langley, WA  
18 Date and Place

Robert S. McKay  
19 Robert S. McKay, Bar No. 19667

20 ENDORSED BY:

21 F. Rodriguez

22 Francisco Rodriguez, Disciplinary Counsel  
23 Bar No. 22881

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

**DISCIPLINARY BOARD  
WASHINGTON STATE BAR ASSOCIATION**

In re

**ROBERT S. MCKAY,**  
  
Lawyer (Bar No. 19667).

Proceeding No. \_\_\_\_\_  
ODC File Nos. 21-01308  
21-00159  
21-00834  
21-01171

**STATEMENT OF ALLEGED  
MISCONDUCT UNDER ELC 9.3(b)(1)**

The following constitutes a Statement of Alleged Misconduct under Rule 9.3(b)(1) of the Washington Supreme Court's Rules for Enforcement of Lawyer Conduct (ELC).

**I. ADMISSION TO PRACTICE**

1. Respondent Robert S. McKay was admitted to the practice of law in the State of Washington on June 13, 1990.

**II. ALLEGED FACTS**

2. In 2019, McKay represented Randall Hanson on child molestation charges. The alleged victim was the daughter of Hanson's girlfriend, Brooke Clark. Hanson pleaded guilty and

1 was sentenced in January 2020.

2 3. McKay met Clark during the representation of Hanson. Clark was supportive of  
3 Hanson throughout and provided testimony on Hanson's behalf at sentencing.

4 4. In December 2019, McKay and Clark began discussing Clark volunteering at  
5 McKay's firm. The two subsequently developed a friendship.

6 5. On February 28, 2020, Clark married Jeff Jansen.

7 6. By June 2020, the relationship between McKay and Clark had transitioned into a  
8 romantic/sexual relationship. Jeff Jansen was not aware of the nature of their relationship.

9 7. In approximately July 2020, McKay provided Clark with several confidential client  
10 files from McKay's law firm, Island County Defense. One of the files McKay provided to Clark  
11 was the file for Randall Hanson, Clark's former boyfriend.

12 8. On July 2, 2020, Brooke Clark legally changed names to Brooke Jansen.<sup>1</sup>

13 9. In August 2020, McKay and Brooke had a disagreement and their sexual relationship  
14 ended. However, they continued to profess their love for each other, and McKay continued to  
15 express interest in a sexual relationship.

16 10. During the course of McKay's relationship with Brooke, McKay expressed to  
17 Brooke McKay's jealousy and dislike of Jeff.

18 11. On September 15, 2020, police arrived at the Jansens' home to arrest Jeff on  
19 allegations of child molestation. The alleged victim was the child of a third person living in the  
20 home. The child was not related to Brooke or Jeff.

21 12. At the time of the arrest, McKay advised police via telephone that McKay was  
22

---

23 <sup>1</sup> To avoid confusion, Jeff Jansen and Brooke Jansen will hereafter be referred to by their first names. No  
disrespect is intended.

1 representing all the adults in the home.

2 13. On September 16, 2020, McKay met with Jeff at the jail as Jeff's attorney in order  
3 to prepare for the preliminary hearing.

4 14. Later that day, McKay represented Jeff at the preliminary hearing. Jeff was released  
5 without being required to post bail. The court imposed a no contact order prohibiting contact  
6 between Jeff and Brooke.

7 15. McKay's representation of Jeff ended shortly thereafter.

8 16. At no point during McKay's representation of Jeff did McKay disclose the nature of  
9 McKay's relationship with Brooke, past or present, or seek informed consent from Jeff to the  
10 representation.

11 17. On September 19, 2020, three days after Jeff's preliminary hearing, McKay wrote  
12 to Brooke professing love and asking Brooke to come live with McKay and "start a bold new life  
13 together."

14 18. On November 16, 2020, McKay wrote to the assigned prosecutor on Jeff's case  
15 asking to talk "in order to make clear to the defendants [sic] wife that he is not goody too shoe  
16 [sic]." McKay told the prosecutor that McKay had a business relationship with Brooke and that  
17 Brooke was "like a daughter to me."

18 19. On November 30, 2020, McKay again wrote to the prosecutor on Jeff's case,  
19 alleging that Jeff was violating the no contact order with Brooke. McKay described McKay's  
20 prior relationship with Brooke as a "father/daughter kind of relationship."

21 20. On December 13, 2020, McKay wrote to the prosecutor yet again, alleging regular  
22 violations of the no contact order prohibiting Jeff from contact with Brooke. McKay described  
23 McKay's relationship with Brooke as that of a "former business associate and friend."

1 21. On March 28, 2021, McKay sent Brooke an email seeking to renew their sexual  
2 relationship with explicit photos and video of Brooke attached.

3 22. On March 29, 2021, McKay wrote to Brooke noting that McKay had dozens of  
4 “pornographic” photos of Brooke and raising the possibility of sending them to Brooke’s husband  
5 or girlfriend. McKay denied any intention to do so “[u]nless I’m provoked.”

6 23. Later that night, McKay wrote to Brooke explicitly threatening to publish “risqué  
7 emails and erotic photos on the internet for all to see,” such as family, business associates, and  
8 CPS. Ten minutes later, McKay wrote: “I will be at Maxwelton beach on 4/11. Be there or suffer  
9 the consequences, previously detailed.”

### 10 III. ALLEGED MISCONDUCT.

11 24. By disclosing confidential client files to Brooke Jansen, Respondent violated RPC  
12 1.6.

13 25. By representing Jeff Jansen without obtaining informed consent regarding the  
14 potential conflict of interest based on McKay’s relationship with Brooke Jansen, Respondent  
15 violated RPC 1.7(a)(2).

16 26. By making misleading statements to the prosecutor in Jeff Jansen’s case,  
17 Respondent violated RPC 8.4(c).

18 27. By threatening to publish explicit images of Brooke Jansen on the internet,  
19 Respondent violated RPC 8.4(i)(moral turpitude).

20 DATED this 15th day of March, 2022.

21  
22 

23 Francisco Rodriguez, Bar No. 22881  
Disciplinary Counsel