

THE MILLER BECKER SEMINAR 2022



The Miller Becker Seminar is Sponsored by:



Ohio Board of Professional Conduct

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THE UNIVERSITY OF AKRON SCHOOL OF LAW
JOSEPH G. MILLER & WILLIAM C. BECKER
CENTER FOR PROFESSIONAL RESPONSIBILITY

John P. Sahl, Faculty Director

ACKNOWLEDGMENTS

The University of Akron gratefully acknowledges attorney Joseph G. Miller, who established The Joseph G. Miller Center for Professional Responsibility at The University of Akron School of Law in 1993. The Center is a nonprofit national center devoted to serving the legal profession and the judiciary. Joseph Miller's generous support has allowed the Institute to achieve the goals Joseph envisioned when forming the Institute.

Joseph Miller and William Becker were distinguished lawyers, public servants, and community leaders. Both were highly respected in the legal community. Mr. Miller was a litigator specializing in Family Law and Land Use Development Law, and Mr. Becker was General Counsel and Vice President of BFGoodrich Chemical Group and Professor/Associate Dean/Chair of various committees at Akron Law. Their close friendship and shared interest in the growing fields of Professional Responsibility and Ethics led to Mr. Miller asking Mr. Becker to serve as Founding Director of the Institute.

Mr. Miller practiced law in the Akron community for 44 years. He chaired the Akron Bar Association's Committee on Unauthorized Practice of Law, as well as the Ethics and Professional Responsibility Committee. He was active on the Ohio State Bar Association Ethics Committee, and chaired its Opinions and Regional subcommittees. He passed away in 2005.

Mr. Becker had a long career as corporate counsel with BFGoodrich Chemical Group, culminating in his service as general counsel and vice president. He then joined The University of Akron School of Law as a Professor and later served as Associate Dean. He was active for many years on the Ohio State Bar Association's Ethics Committee, serving as vice chair. He also served as bar counsel to the Akron Bar Association. Even before the founding of the Institute, he was a respected and sought after speaker on lawyer ethics subjects. Mr. Becker passed away in 2003.

Upon Mr. Becker's death, Joseph G. Miller sought to recognize the valuable contributions of Mr. Becker and directed that the Center be renamed to include the name of his longtime friend and colleague, leading to its current designation as the Joseph G. Miller and William C. Becker Center for Professional Responsibility. Thanks to their legacy, we have learned much from them and continue to benefit from their many contributions.

In Memoriam

Frank E. Quirk, Esq.
1932-2021

Frank Quirk was a man of varied talents who made countless contributions to the legal profession and Miller-Becker Seminar.

Before attending college, Frank served as an intelligence officer for the United States Air Force in the 1950s. After earning undergraduate and law degrees from The Ohio State University, he returned to Akron in 1958 and joined a law firm that later became Brouse McDowell, LPA. For the next 44 years, Frank practiced corporate law and litigation and served as the firm's managing partner from 1989 to 1997.

Frank became of counsel for the firm in 2002 and was appointed as Director of the Miller-Becker Center at the University of Akron Law School. He continued the mission of the Center, including co-sponsorship of the Miller-Becker Seminar, until 2013.

Frank was active in the legal profession and the Akron community. He was president of the Akron Bar Association in 1983-1984 and helped to establish the Akron Bar Foundation in 1985. His many awards included the bar association's Liberty Bell Award, the Weir Award for Professionalism given by the Ohio State Bar Association, and the Sir Thomas More award for outstanding personal integrity, community service, and professional excellence. Frank also served in leadership positions in multiple civic organizations in the Akron area.

In addition to his many community and professional activities, Frank was a devoted husband, father, and grandfather. He found time to train for and complete 12 marathons and was an avid skier into his 80s when he skied with his grandchildren.

The Miller-Becker planning committee fondly recalls Frank Quirk and his efforts to promote and sustain the Miller-Becker Seminar.

**SEMINAR
AGENDA**

MILLER-BECKER SEMINAR AGENDA
Friday, October 21, 2022
Ohio State Bar Association Headquarters

Anatomy of a Disciplinary Case—A Four-Act Play

8:55 – 9:00 a.m.	Welcome and Announcements
9:00 – 10:00 a.m.	Act I: Investigation and Charging > Joseph M. Caligiuri (moderator)
10:00 – 10:45 a.m.	Act II: Counseling the Respondent > Alvin E. Mathews, Jr. (moderator)
10:45 – 11:00 a.m.	Break
11:00 a.m.–12:00 p.m.	Act III, Scene One: Panel Hearing > Lori J. Brown (moderator)
12:00 – 12:45 p.m.	Lunch
12:45 p.m.–2:30 p.m.	Act III, Scene Two: Panel Hearing (continued) > Kristi R. McAnaul (moderator)
2:30 – 2:45 p.m.	Break
2:45 – 3:30 p.m.	Act IV: Panel Deliberation > Richard A. Dove (moderator)
3:30 – 4:30 p.m.	Coda: Disciplinary Process Overview (Optional) > Joseph M. Caligiuri > Richard A. Dove
4:30 p.m.	Conclusion

The “Cast”

Kelly Heile, Esq.	Bar Counsel
James Manken, Esq.	Relator’s Counsel
Don Sheetz, Esq.	Relator’s Counsel
Donald Holtz	Relator’s Investigator
Brent Small	Respondent
Allan Asbury, Esq.	Respondent’s Expert
George Jonson, Esq.	Respondent’s Counsel
Heather Zirke, Esq.	Respondent’s Counsel
Peggy Schmitz, Esq.	Hearing Panel Chair
Hon. Chris Cook	Hearing Panel Member
Patrick McLaughlin, Esq.	Hearing Panel Member

CLE Credit—5.25 for the main program; 6.25 for those attending the optional process overview.

UPPER OHIO BAR ASSN.
v.
PAT H. LOCKHART
Case No. 2022-003

TIMELINE FOR PAT LOCKHART

Nov. 16, 2014	Admitted to practice in Ohio
Nov. 1, 2016	Suspended for failing to register
Nov. 9, 2016	Reinstated
2017	SJ graduates from rehab facility in Arizona
Dec. 10, 2018	SJ retains KK
Dec. 15, 2018	Lockhart hired by KK
June 2019	Divorce finalized between RJ and SJ
July 2, 2019	McDonald accident with dump truck
July 3, 2019	Text messages
July 11, 2019	Text messages
July 12, 2019	Lockhart files a Motion for Contempt (improper notary from July 11)
Aug. 21, 2019	Hearing on motion to show cause for property
	SJ flies to Ohio
	Sex in hotel room
Aug. 22, 2019	Text messages acknowledging sex
	Motion to modify support
Aug-Sep., 2019	SJ quits job
Sep. 24, 2019	SJ returns to Ohio for hearing
Sep. 25, 2019	Hearing on motion to modify support
	Sex in hotel room
Early Oct. 2019	Lockhart takes SJ to airport
	SJ returns to Arizona
	Lockhart text message about representing SJ
	SJ records call
Oct. 15, 2019	SJ email to KK
Oct. 2019	KK confronts Lockhart
	KK removes Lockhart, assigns Simon

Nov. 3, 2019	KK terminates Lockhart
April 9, 2021	SJ files a grievance against Lockhart
April 30, 2021	Lockhart response to SJ LOI
May 13, 2021	Interview of Pat Lockhart (SJ)
August 7, 2021	McDonald files grievance
Sept. 4, 2021	Interview of Ronald McDonald
Sept. 8, 2021	Interview of Pat Lockhart (RM)
Sept. 18, 2021	Addendum to Pat Lockhart interview
Jan. 30, 2022	Complaint filed, 22-003
March 1, 2022	OLAP Contract
March 13, 2022	Lockhart meets with Trapper John
April 5, 2022	Lockhart meets with Dr. Marvin
April 12, 2022	Dietz character letter
April 15, 2022	Kurase character letter
April 17, 2022	Stipulations filed
April 23, 2022	Ramos character letter (late)
April 24, 2022	Hearing

BAR ASSOCIATION OF UPPER OHIO

Kelly Heile, Bar Counsel
75 Hillside Drive
Over the River, Ohio 44441
(555) 900-8765 I (555) 900-4321 Fax
<https://www.bar.upper.ohio.com>

INSTRUCTIONS

The Bar Association of Upper Ohio investigates allegations of unethical conduct against attorneys and judges, and allegations that an individual or entity has engaged in the unauthorized practice of law. Please understand that our office has no jurisdiction over and cannot involve itself in the legal merits of your case. The disciplinary process will not affect court decisions made in your case. The Bar Association of Upper Ohio cannot give legal advice.

ELECTRONIC SUBMISSION: If you are completing this form electronically using the Online Grievance Portal, you must check the box attesting that you are the person listed as the grievant in the “Your Name” portion of the form, or that you have permission from the person listed as the grievant in the “Your Name” portion of the form. When saving the form to your computer, save it as “Last name Grievance.” For instance, if your name is Lisa Smith, save the grievance form as “Smith Grievance.” Grievances that contain audio or video files, or are over 200 megabytes must be sent via US mail.

SUBMISSION BY US MAIL: If you are submitting this form via US mail, the form must be completed and signed. Unsigned grievances will be returned. You may attach additional sheets of paper, if necessary, in order to complete the “Facts of the Grievance” portion of the form. If you wish to file a grievance against more than one attorney or judge, please use one form per attorney or judge. You may make additional copies of the form and you may enclose all forms in one envelope. Please complete the form in black ink only and do **not** use pencil, write in between the lines or in the margins of the form, affix post-it notes or stickers to the form, or use staples. If you include documentation with your grievance, send copies only. **PLEASE DO NOT SEND ORIGINALS.** If additional pages are needed, please use only 8 ½ x 11” size paper. After you have legibly completed the form, please sign and date the form.

The Rules of the Supreme Court of Ohio require that investigations be confidential. You are requested to keep confidential the fact that you are filing this grievance. Only the attorney or judge against whom you are filing your grievance may waive confidentiality. In filing a grievance, you are waiving the attorney-client privilege.

The attorney or judge against whom you are filing your grievance is entitled to receive a copy of your grievance and **may** be asked to respond to your allegations. Your grievance may result in your attorney withdrawing from your case. The Bar Association of Upper Ohio cannot prevent an attorney from withdrawing from representation.

Once received, please allow up to 90 days to review and respond to your grievance. During that time, we will advise you if we dismiss your grievance or open the matter for investigation. We may or may not contact you by mail or telephone to provide additional information. We will only respond to inquiries from the person(s) who completed the form.

The Grievance Process

A grievance sent to the Bar Association of Upper Ohio or a local bar association’s certified grievance committee will be reviewed to determine whether the grievance alleges a violation of the Ohio Rules of Professional Conduct or the Code of Judicial Conduct. If there is evidence supporting a violation, the grievance will be investigated. Following the investigation, if substantial, credible evidence of a violation exists, a formal complaint may be filed with the Board of Professional Conduct. A three-member panel of the Board will review the complaint and determine whether probable cause exists to certify it. If the complaint is certified by the Board, a hearing may be held before a different three-member panel of the Board. The panel considers the evidence and makes a recommendation to the entire Board. The Board then makes a recommendation to the Supreme Court of Ohio. The Court has the final say on whether to discipline an attorney or judge and what sanction should be imposed. A grievance is confidential until the Board certifies it as a formal complaint. A grievance or complaint can be dismissed at any point in the process. **Please keep this page for your records.**

Grievance Form

Ms. Mrs. Miss. Mr.

YOUR NAME: Johnson Stephanie 555-123-4567
Last First MI Phone No.

PERMANENT ADDRESS: 35 Main Street SJ106@gmail.com
Street Email Address

Over the River Lake View Ohio 44441
City County State Zip Code

ABOUT WHOM ARE YOU COMPLAINING?

(Please circle) ATTORNEY or JUDGE or UPL

NAME: Lockhart Pat H. 555-555-5555
Last First MI Phone No.

ADDRESS: 1180 Belleview Terrace, Suite 5
Street

Everywhere Lake View Ohio 44444
City County State Zip Code

Have you filed this grievance with any other agency or bar association? Yes No

If yes, provide name of that agency and date of filing: _____ date: _____

Did you receive a response?: Yes No IF YES, PLEASE ATTACH A COPY

Did this attorney represent you? Yes No Type of case: Divorce

Date the attorney was hired: December 2018 Does s/he still represent you?: Yes No

Did you pay the attorney a fee/retainer? Yes No If yes, how much?: \$5,000

Did you sign a written fee agreement/contract? Yes No IF YES, PLEASE ATTACH A COPY

Has the attorney sued you for fees? Yes No

Have you brought civil or criminal court action against this attorney or judge? Yes No

If yes, provide name of court and case number _____

Result of court action: _____

Name and contact information for attorney currently representing you, if different than attorney about whom you are complaining:

Does this grievance involve a case that is still pending before a court? Yes No

If yes, provide name of court and case number: _____

What action or resolution are you seeking from this office? Disbarred and repay \$5,000 with interest

WITNESSES:

List the name, address, and daytime telephone number of persons who can provide information, IF NECESSARY, in support of your grievance.

<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE NO.</u>

FACTS OF THE GRIEVANCE

Briefly explain the facts of your grievance in chronological order, including dates and a description of the conduct committed by this legal professional. Attach copies (DO NOT SEND ORIGINALS) of any correspondence and documents that support your grievance.

I want Pat Lockhart disbarred and he should be required to repay my \$5,000 with interest. In late December 2018, I hired Kaptain Krunch to represent me after my ex husband filed for divorce against me. I was working in a rehab facility in Arizona when my ex filed for divorce. My girlfriend referred me to Kaptain Krunch. I paid Krunch \$5,000 for my divorce. I had to use my credit cards to make the payments and I am still paying off the balances at 18% interest. After a week, Krunch calls me and tells me that he is assigning Pat Lockhart as my lawyer. I hired Krunch, not Lockhart, but Lockhart seemed like a nice guy on the phone. I remember during our first phone call, he asked why I was in Arizona and I told him the whole story about how I was an addict, lost my kids, but was now working with other addicts to help them keep sober. He seemed real interested in my life. That made me feel good. Not much has gone right for me in my life. Back then, I had not seen my kids for over a year, but I stayed sober. My ex was a terrible father. When I talked to my kids on the phone, they told me all sorts of stuff about my ex smoking in the house and them sleeping in the same bed with my ex and his new girlfriend who was young enough to be his daughter. When Pat first started, he said that he could wrap the divorce up within a few months but it took over six months to complete my divorce. When I got back to Arizona, my ex started messing with my telephone time with my kids and that had me totally stressed out. I couldn't talk to anyone at the clinic because they had their own problems, so I would talk to Pat a lot, like until one or two in the morning. He told me that he would continue to represent me and that I could ask the judge to hold my ex in contempt of court for messing with me and my kids. I told Pat that I did not have any more money and that I was still paying off my credit cards. He didn't seem to care, and I think he liked me. We texted a lot and while I was in Arizona and I knew he liked the flirting back and forth. I borrowed money from my brother to fly to Ohio to attend a hearing on another motion. The judge was rude to me and would not let me talk about my ex's bad habits with the kids. I am going to file a complaint against the judge, too. I told Pat during a break that the judge was biased, but he told me not to worry about the judge and just to stay focused on my kids. I was upset with Pat cuz I didn't think he did a great job, but toward the end, the judge seemed to be on my side. After the hearing, Pat took me back to the hotel off 71. He brought a six pack of beer. I reminded him that I was still sober. He apologized but drank three beers while we talked. I felt good that I was not tempted to drink and I was in a good mood.

Before I knew it, Pat and I had sex. The next morning, Pat sent me the nicest text telling me that he wanted me to stay with him in Ohio. I was so happy to be in a relationship with a professional rather than my loser ex husband. After we had sex, Pat really started to talk and text about me moving to Ohio and living with him. We talked a lot about getting custody of my kids and moving in with Pat. He told me he would buy a house where we all could live together. My manager at the clinic must have told me every day that it looked like I was on Cloud Nine. I quit my job and told my manager that I was moving back to Ohio and was going to live with my lawyer. My manager told me that it wasn't right to be carrying on with my lawyer but I told her that he loved me and wasn't charging me for my case. At the time, I didn't think about it, but she was right. When I came back to court in late September over a property dispute, Pat reserved a hotel room for me at the same hotel off 71. After the hearing, we would go back to the hotel room and have sex. It seemed like Pat was more interested in sex than my case, but I wasn't gonna complain. Pat told me he loved me, and I loved him, so I told him that every night. I stayed in Ohio for almost a week, and Pat drove me to the airport so I could get the rest of my stuff and move back to Ohio. On the way, he confessed that he was playing me and that he was not going to buy a house for me and my kids. He told me that he never loved me and that it was a game and that I should get my job back and stay in Arizona. I could not believe it. I thought he was joking but he was as serious as a heart attack. When I got to my apartment, I called my AA sponsor because I could not deal with all this stress. I wanted a drink so bad. If my sponsor had not answered the phone, I would not be sober enough to write this complaint. I thank God every day for my sponsor. I should have listened to my manager at the clinic. Pat Lockhart is a scumbag. I was with my sponsor the next day when Pat texted me saying that he still wanted to be my lawyer. My sponsor almost took the phone out of my hand-she wanted to cuss Pat out. She told me that I should call Pat, so I did. He's pathetic. He was so worried about a bar complaint. He never asked how I was doing. I trusted him as my lawyer, and he used me for one thing. He never wanted to be with me and never wanted to be a father figure to my kids. I want my money back and I want his license taken away before he does this to another woman. My sponsor said she googled Pat and found out that he's done this with other clients in the past. When I told Kaptain Krunch about Pat, he didn't believe me right away, but the next day, he gave me Tina Simon as my lawyer. She went right after my ex and I now have joint custody of my kids and am living back in Ohio. I wish Tina would have been my lawyer from the start. Tina told me that there had been rumors about Pat and other female clients.

The Rules of the Supreme Court of Ohio require that investigations be confidential. Please keep confidential the fact that you are submitting this grievance. The party against whom you are filing your grievance will receive notice of your grievance and may receive a copy of your grievance and be asked to respond to your allegations.

If submitting this grievance electronically via the Online Grievance Portal, you do **NOT** need to sign this form. However, you must check the box in the Online Grievance Portal attesting that you are the person listed as the grievant in the "Your Name" portion of this form, or that you have permission from the person listed as the grievant in the "Your Name" portion of this form before uploading the form.

If submitting this grievance by US mail, you **MUST** sign below. WE WILL NOT PROCESS AN UNSIGNED GRIEVANCE.

Stephanie Johnson
Signature (If submitting by US mail)

April 9, 2021

Date

1 Date: May 1, 2021
2
3 To: Certified Grievance Committee
4
5 From: Don Holtz, Investigator
6
7 Respondent: Pat Lockhart
8
9 Grievant: Stephanie Johnson
10

11 On May 1, 2021, Kelly Heile and I interviewed Stephanie Johnson at her home in
12 Over the River, OH. We arrived just after noon. An older woman answered the
13 door and invited us in. She said she was Stephanie's mom and that she would
14 wake Stephanie up.
15

16 When Stephanie came out of the bedroom, she was wearing an old, white T-shirt
17 with a big "middle finger" on the back, with a faded signature across the logo.
18 When asked, she told us that the drummer of the (local) band signed the shirt
19 years ago. The "middle finger" was the band's logo. The band broke up a few
20 years ago. She had pajama bottoms on, and immediately lit a cigarette. The
21 house was dark and smelled of smoke. I noticed two beer bottles near the
22 fridge and, later in the interview, I saw Stephanie's mom sip from one of the
23 bottles of beer. Stephanie appeared sober, but tired, and aged beyond her
24 years.
25

26 The interview lasted approximately 50 minutes, and Stephanie was quite
27 consistent with her grievance, although she went off on tangents and had
28 difficulty remembering dates and times. As soon as we began talking about Mr.
29 Lockhart, Stephanie lit another cigarette and smoked at least six more during
30 the 45 minutes. She mentioned that "this whole situation makes me anxious."
31 She repeated several times that she "hated" Lockart. She seemed focused on
32 the \$5,000, even after we gently explained that she fared very well in her
33 divorce and the post-decree proceedings. When Kelly told her that we would not
34 be able to assist her in obtaining a refund of her fees, her attitude changed a
35 bit, but she still seemed interested talking about Mr. Lockart.
36

37 Regarding the fees, Kelly asked her what the arrangement was between her and
38 Lockhart after the divorce was final. She said that she told Lockart that she

39 could not afford any more legal fees, and she seemed to think he was ok with
40 that arrangement. She said that Lockart never discussed fees after they started
41 flirting with each other. When Kelly asked if the fees were in exchange for sex,
42 Stephanie smirked and said, "That's the way I saw it." When pressed, she said
43 that Lockart never came out and said it, but she questioned why a lawyer would
44 work on a case for free. She said Lockhart never told her that she was paid-in-
45 full with Kaptain Krunch (she asked if she could file a grievance against him,
46 too, for keeping her \$5,000). She figured that the \$5,000 was for the divorce,
47 which according to her, took way too long. She started complaining about the
48 judge and her ex, but Kelly redirected her each time.

49
50 Stephanie said that she was attracted to Lockart and that she's pretty sure she
51 started the texting (she called it "sexting"), but that Lockhart went right along
52 with it. I asked if she still had the text messages. She pulled out her phone and
53 showed us a few but said that she deleted most of them after "he dumped me."
54 (After the interview, I asked her to forward all the text messages, which she did
55 that same day). When asked if Lockhart ever sent explicit photos or videos, she
56 said no. She never sent any to him, either. She never communicated by email,
57 only text or phone calls.

58
59 Stephanie said that they had sex after the first hearing (she could not recall the
60 date or the year but said it must have been early in the year because when she
61 got off the plane it was hailing). She said that she was "pissed" when Lockhart
62 stopped to get a six-pack on the way to the hotel. As she put it, "that was really
63 fucked up for a lawyer to do knowing I was in recovery." She said that after
64 they had sex, she went back to Arizona and she and Lockhart spoke several
65 times a day, and late into the night. (Note: subpoena cell phone records). When
66 asked, she said Lockhart "promised" to buy a house for her and her kids and
67 that they would live together. She said several times that she trusted Lockhart
68 and that she believed him. When Stephanie quit, she told her boss about
69 Lockhart and her boss "came down hard on me and cussed me out for being
70 stupid." When asked, Stephanie said her boss was referring to her "messing
71 around with my lawyer" as being stupid, not quitting her job.

72
73 Stephanie said everything changed after the hearing a few weeks later. She was
74 pretty sure it was summer (because it was hot outside). But when Kelly
75 reminded her that her court date was in September, she asked what year.
76 Stephanie said Lockhart was more interested in her body than the case and she

77 knew he wasn't paying attention. She complained about his "lawyering skills."
78 She said he always talked about the house even after she quit her job. But on
79 the way to the airport, she said Lockhart was acting like an asshole. She started
80 yelling at him and then she said he just "lost his shit" and told her that he
81 didn't want to see her anymore and that she should stay in Arizona. She said he
82 played her like a fiddle and repeated how much she hated him.

83
84 She said her sponsor, Jenna Krieger (602-980-0021), saved her life. She said
85 when she got back, she almost relapsed. She said Jenna helped her everyday for
86 weeks, and even helped get her job back at the clinic. When asked about the
87 phone call she made to Lockhart at Jenna's suggestion, she couldn't remember
88 calling him. When Kelly read her the grievance that she wrote, Stephanie said
89 that Jenna would remember if they called Lockart. With Stephanie's permission,
90 I stepped out and called Jenna who remembered the call. She said that
91 Stephanie recorded the call. When I informed Stephanie, she immediately
92 remembered and found the call on her phone. She was able to forward the
93 recorded call to my cell phone.

94
95 Stephanie was adamant that Lockhart had slept with other clients, but she had
96 no first-hand knowledge, names, or contact information of any other clients.
97 She repeatedly said to ask Tina Simon.

98
99 Kelly explained the disciplinary process and stated that we hoped Lockhart
100 would agree to our allegations, but if not, there was a possibility we would need
101 her to testify. Stephanie reiterated that "Pat's a piece of shit" but she could not
102 "face that asshole." Kelly assured Stephanie that we would try to keep her off
103 the stand, but Stephanie repeated several times that she would not be able to
104 handle the stress.

105
106 We concluded the interview at 1:05. We advised Stephanie that we would
107 follow-up with her within the next several weeks. Kelly and I agree that
108 Stephanie's story was consistent, even though her recall of dates and times was
109 questionable. Although she comes across as rough and crude sometimes, she
110 was genuine and appropriately upset and hurt by Lockhart's betrayal. We
111 agreed that, to the extent possible, we should respect her desire to not testify.
112 The text messages and phone recordings establish misconduct.

1 Date: May 12, 2021
2
3 To: Certified Grievance Committee
4
5 From: Bar Counsel
6
7 Respondent: Pat Lockhart
8
9 Grievant: Stephanie Johnson
10
11

12
13 On May 12, 2021, at 11:05 a.m., I interviewed Pat Lockhart at his office on
14 Belleview Terrace in Everywhere, OH. Pat introduced me to his assistant and
15 invited me into his office, which contained a small table and two chairs a few
16 feet from his desk. He offered me a cup of coffee, which I declined.
17

18 Mr. Lockhart seemed anxious, but he was welcoming. After some small talk
19 about his time in the Marines, I asked him if I could ask him some questions
20 about Ms. Johnson's grievance. He said I could continue with my questions. I
21 asked when the first time was that he met Ms. Johnson in person. He looked
22 through his file, and said it was when her divorce was finalized in June or July
23 2019. I asked when the next time he was in her presence, and he said it would
24 have been the August 2019 hearing. I then showed him the Motion for
25 Contempt, which contained what appeared to be Ms. Jonson's notarized
26 signature from July 11, 2019. I told him that Ms. Johnson told us that she did
27 not sign the document and that she was never in Ohio in July. Mr. Lockhart
28 admitted that he signed her name and notarized it "as a convenience for her."
29 Mr. Lockhart shook his head and put his hands over his face.
30

31 I then asked him to review his response to the Letter of Inquiry, which I
32 provided to him. After he read it, I asked him if everything was accurate. He
33 hesitated for at least 30 seconds, with his face in his hands. After this long
34 silence, he looked up and said, "Not exactly." When I asked him what he meant
35 by "not exactly," Mr. Lockhart explained that he regretted sending that response
36 because it was not entirely truthful. When I questioned him about the parts
37 that were not truthful, he said, "I had a sexual relationship with Ms. Johnson,
38 and I should have disclosed that in my response." Mr. Lockhart stated that he

39 got scared upon receipt of the LOI, and because he had lost his job, he could
40 not afford a lawyer. He wrote the response hoping the matter would go away.
41 He said that it was really stupid of him, because he knew from speaking with
42 Kaptain Krunch that Ms. Johnson had recorded a telephone call in which he
43 admitted to the “improper” relationship. Nevertheless, he reiterated that he
44 panicked and fabricated portions of his response.

45
46 I asked him about Ms. Johnson’s allegations concerning the text messages from
47 July of 2019. Without showing them to Mr. Lockhart he admitted to sending and
48 receiving sexually suggestive text messages. When I asked about having sex
49 after the August and September 2019 hearings, Mr. Lockhart interrupted me
50 and stated words to the effect of, “Look, everything that she wrote is pretty
51 close to the truth.” He then said, “Except the stuff about other women.” When I
52 followed up on that, he said that he has never had a sexual relationship with a
53 client before or after Ms. Johnson.

54
55 About 30 minutes into the interview, Mr. Lockhart’s secretary interrupted us and
56 informed him that his mother was being taken to the hospital after being
57 involved in a “fender-bender.” At that point, he indicated that he needed to
58 leave, as his mother, Patricia, was a diabetic. I advised Mr. Lockhart that I would
59 contact him in a few days to reschedule the remainder of our interview. He said
60 that would be fine. I expressed concern for his mother and left.

61
62 Upon return to the office, I confirmed with the Everywhere Police Department
63 that Patricia Lockhart, age 78, was involved in a two-car accident at 11:48 a.m.
64 and taken to the hospital by ambulance for precautionary reasons.

65
66 We decided to hold off on resuming the interview until further notice.

August 7, 2021

To whom it may concern:

Pat Lockhart was my lawyer after I had my accident in 2019. I was driving on West Main Street in Over the River, and I was hit from behind by a dump truck. The other driver was texting and not paying attention to the road. He got a citation from the police.

Since my accident I have not been able to go to work and I am in constant pain. I go to the chiropractor three times a week for therapy. My chiropractor, Dr. Zhivago, told me that he met Pat in college and that I should call him. I signed up with Pat when he came to my house after I called him.

Pat told me that he tried to settle my case with the dump truck's insurance company. I know that he talked to my insurance company, too.

It has been more than two years since the accident. I have not been paid any money. When I ask him about it, he tells me that he is working on my case, but I never see any results.

I need help and I need a new lawyer. Can you help me?

Thank you,
Ronald McDonald

1 Date: September 4, 2021
2
3 To: Certified Grievance Committee
4
5 From: James Manken
6
7 Respondent: Pat Lockhart
8
9 Grievant: Ronald McDonald
10
11

12
13 On September 4, 2021, I interviewed Ronald McDonald. I met with McDonald at
14 the Panera on West Main Street in Over the River. McDonald took an Uber to
15 meet me, and I drove him home after our meeting.
16

17 McDonald repeated the story he told us in his grievance. McDonald is a 52-year-
18 old veterinary tech and used to work at the Main Street Animal Clinic. He has
19 not worked since his accident. He lives on a small non-working farm just east of
20 the city. He is married to Clara Barton, a licensed practical nurse. They do not
21 have children.
22

23 McDonald was driving his pickup truck east on West Main Street at 12:30 p.m.
24 on July 2, 2019. He was hit from behind by a private dump truck. His airbags
25 deployed, he was in pain immediately, and he thinks he lost consciousness for a
26 brief period. There was no blood and no broken bones. The pickup was not
27 totaled by his insurance company, but McDonald no longer drives.
28

29 The police and EMS came to the crash, and McDonald was transported to
30 General Hospital. He was admitted to the hospital and treated for 24 hours. He
31 did physical therapy at home for six months and now treats with Dr. Mark
32 Zhivago, D.C. He takes pain medication and was wearing a back brace. McDonald
33 estimates his unpaid medical expenses to be approximately \$15,000. He said he
34 receives dozens of collections calls per day.
35

36 According to McDonald, the truck's driver was texting and not paying attention
37 to the road. The truck driver was cited by the police. McDonald does not know
38 what the citation was for. When I asked how he knows the driver was texting, he

39 told me that Pat Lockhart told him. McDonald said that he has asked Lockhart
40 for more information on the driver, but Lockhart always puts him off.

41
42 McDonald was referred to Lockhart by Dr. Zhivago. According to Zhivago, he met
43 Pat in college. Zhivago referred to Lockhart as a "pit bull." Lockhart came to
44 McDonald's farm to meet with him the first time. During that meeting, McDonald
45 signed a contingency fee agreement (he is looking for his copy) with Kaptain
46 Krunch's firm and Lockhart. Lockhart also gave him a business card with his cell
47 phone and email address. Lockhart told him that he was "confident" of a quick
48 settlement.

49
50 McDonald was patient with Lockhart for a while but when he could not return to
51 work, McDonald started to get frustrated. He called Lockhart repeatedly with no
52 return call. When Lockhart finally called him back, Lockhart told McDonald that
53 he tried to settle the case with the dump truck's insurance company but that it
54 was not settled. Lockhart promised to file a lawsuit for McDonald. Sometime in
55 late 2019, Lockhart told McDonald that he left the Krunch firm and was a solo
56 practitioner. Lockhart assured McDonald that McDonald was an important client
57 and that he was still working for him. Whenever McDonald talked to Lockhart,
58 Lockhart told him that he was "working on" his case.

59
60 Based on a conversation with his brother, Rick McDonald, McDonald believes
61 that no lawsuit has been filed but he is having trouble reaching Lockhart.

62
63 Lockhart encouraged McDonald to keep treating with Dr. Zhivago even though
64 McDonald was paying out of pocket for the treatment. An adjuster from
65 McDonald's motor vehicle insurance company called McDonald to tell him that
66 she had talked to Lockhart. McDonald does not know her name and cannot
67 remember how long ago she called him. He cannot remember what else they
68 talked about. No other insurance company has been in touch with McDonald.

69
70 Since the accident, McDonald estimates that he has called Lockhart 20 times
71 and spoken to him about 10 times. McDonald brought copies of emails he sent
72 to Lockhart over the past two years. He estimates there are about 100 emails
73 and that Lockhart answered some of his emails. McDonald has not been paid
74 any money and is considering applying for SSI disability payments. He asked for
75 a referral to a new lawyer.

76

77 McDonald is very soft spoken and deliberate. He would make a good witness
78 although his memory is a little foggy on some important details. There may be
79 documents that we could use to refresh his recollection. When I dropped
80 McDonald off at his farm, I told him that someone from our committee would be
81 in touch with him soon.

1 Date: September 8, 2021
2
3 To: Certified Grievance Committee
4
5 From: Committee Member Manken
6
7 Respondent: Pat Lockhart
8
9 Grievant: Ronald McDonald
10

11
12 On September 8, 2021, Bar Counsel and I interviewed Pat Lockhart about
13 Ronald McDonald. We obtained a written response from Lockhart one week
14 before the interview. We met with Lockhart at the Bar Association offices.
15 Lockhart's interview was consistent with most of the statements made in his
16 written response. He brought a copy of his file as we requested. Lockhart also
17 provided copies of the declaration pages for his professional liability coverage
18 from 2018. Lockhart had the minimum coverage, i.e., "\$100,000 per occurrence
19 and \$300,000 in the aggregate," until his policy lapsed in early 2020. Lockhart
20 admits that he does not maintain professional liability insurance and that he
21 has not been providing the requisite notice under Prof.Cond.R. 1.4(c). When
22 asked how many new clients he has taken on since his policy lapsed, he said
23 "ballpark? 20." He said they are all domestic clients. He claims that he will
24 immediately institute the notice requirement.
25

26 Lockhart admits that he represents (or represented?) Ronald McDonald.
27 Lockhart acknowledges that the accident took place in July 2019. Lockhart
28 seemed to like McDonald and feels badly that the case did not settle for the
29 amount that he believes is "fair" to McDonald. When asked at what amount
30 Lockhart "valued" the case, he responded with "somewhere north of \$50,000."
31

32 According to Lockhart, he and Dr. Zhivago were fraternity brothers in college.
33 Lockhart believes that McDonald is the third or fourth client referred to him by
34 Dr. Zhivago and the first client he accepted. The other clients hired "that guy on
35 TV." Lockhart estimates that McDonald is his "fifth or sixth" personal injury
36 client and states that his practice is "99% family law."
37

38 Lockhart produced a copy of McDonald's signed fee agreement and admitted
39 that he told McDonald he thought the case would result in a "quick settlement."
40 Lockhart agrees that McDonald called him "at least 20 times." Lockhart says he
41 called McDonald back "more than half the time."

42
43 Lockhart claims that he told McDonald that he tried to settle the case with the
44 dump truck's insurance company. Lockhart admits that he promised to file a
45 lawsuit for McDonald and admits that no lawsuit has been filed. Lockhart is
46 aware that the statute of limitations has run.¹ Lockhart's file contains
47 correspondence, included printed emails, between Lockhart and Grange
48 Insurance, the dump truck's insurance company. Lockhart sent a demand letter
49 to Grange asking for \$1 million to settle the case. The adjuster for Grange
50 immediately responded rejecting that offer. A subsequent review of the emails
51 revealed approximately 55 emails from McDonald regarding various issues but
52 mainly asking about the case. Lockhart responded to 40 of the 55 emails. It
53 does not appear that Lockhart ever responded to McDonald's two most recent
54 emails.

55
56 Lockhart's file also contains a draft of the complaint that he allegedly planned
57 to file on McDonald's behalf. The complaint is a simplistic, form-type personal
58 injury complaint. When asked why he simply did not file the draft just to
59 preserve the statute of limitations, Lockhart answered, "I don't know." We also
60 asked why he didn't file and then dismiss under Civ.R. 41(A). Again, Lockhart
61 said, "I don't know, someday, I just could not even get out of bed." We asked
62 how much McDonald's medical expenses amount to as of today. Lockhart again
63 answered that he did not know. We asked Lockhart about his statement that
64 "somedays, I just cannot even get out of bed." He said that he's felt depressed
65 for some time

66
67 Lockhart states that he has not told McDonald that he missed the statute of
68 limitations. Lockhart has not notified his professional liability insurance carrier
69 of this situation. Lockhart said that he "probably should" contact his carrier
70 about McDonald.

71

¹ Per R.C. 2305.10, the statute of limitations is two years.

72 When our meeting concluded, I told Lockhart that our committee would be in
73 touch with him as soon as possible. I also advised him that he should consider
74 obtaining counsel.

75

76 Addendum (Sept, 18, 2021)

77

78 This morning, I received a call from Lockhart. He wanted me to know that he
79 terminated his relationship with McDonald by phone and letter, He told
80 McDonald that he missed the statute of limitations and provided McDonald with
81 his malpractice insurance carrier's phone number. He asked for my email so
82 that he could send me the letter, which he did moments later. I thanked him for
83 the information and advised him that we would contact him regarding the
84 results of our investigation.

85

**BEFORE THE BOARD OF PROFESSIONAL CONDUCT
OF THE SUPREME COURT OF OHIO**

Bar Association of Upper Ohio
75 Hillside Drive
Over the River, Ohio 44441

Relator,

Case No. 2022-003

v.

Pat H. Lockhart
Attorney Registration No. 0000000
1180 Belleview Terrace, Suite 5
Everywhere, Ohio 44444

Respondent.

Complaint and Certificate

Relator alleges that Pat H. Lockhart, an attorney at law duly admitted to the practice of law in the state of Ohio, has committed the following misconduct:

1. Respondent, Pat H. Lockhart, was admitted to the practice of law in the state of Ohio on November 16, 2014.
2. Respondent is subject to the Rules of Professional Conduct and the Rules for the Government of the Bar of Ohio.

Previous Discipline

3. On November 1, 2016, the Supreme Court of Ohio suspended respondent from the practice of law for failing to timely register as an attorney. *In re Attorney Registration Suspension of Lockhart*, 123 Ohio St.3d 541, 2016-Ohio-401, 956 N.E.3d 313. The court reinstated Lockhart eight days later.

The S.J. Matter

4. On December 10, 2018, S.J. retained Kaptain Krunch & Associates LLC (Kaptain Krunch) to represent her in her divorce. *R.J. v. S.J.*, Lake View County Domestic Relations Court, Case No. DR-18-XXXX.
5. S.J. signed an agreement with Kaptain Krunch to pay a \$5,000 flat fee for representation in her divorce.
6. Via two different credit cards, S.J. made two payments of \$2,500 each to Kaptain Krunch.
7. Both of S.J.'s \$2,500 payments were deposited into Kaptain Krunch's operating account.
8. On or about December 15, 2018, Kaptain Krunch hired respondent as an associate attorney.
9. Kaptain Krunch assigned respondent to handle S.J.'s divorce.
10. Before she hired Kaptain Krunch, S.J. did not know or have a relationship with respondent.
11. At the time respondent was assigned to S.J.'s case, S.J., an alcoholic, was 25 years old and living and working at an addiction rehabilitation facility in Arizona from which she graduated in 2017.
12. During this timeframe, S.J.'s children lived in City View, Ohio with their father, R.J.
13. Because S.J. had been living in Arizona, she had not seen her children since early 2017.
14. At all times relevant to the allegations of misconduct in this formal complaint, S.J. did not possess the financial resources to move back to Ohio.
15. The *R.J. v. S.J.* divorce was resolved by an agreement between the parties and finalized by the court in June 2019.

16. S.J. was present in court for the final hearing on her divorce but returned to Arizona immediately after the hearing.
17. After her divorce was final, respondent continued to represent S.J. on post-decree actions and other related legal issues as they arose.
18. Respondent and S.J. had contact with each other via email or telephone at least every other day.
19. In or around early July 2019, respondent and S.J. began sending sexually suggestive text messages to each other.
20. On the evening of July 3, 2019, the following text message exchange occurred:

Respondent: I can't sleep thinking about u.¹

S.J.: I cant sleep either 

Respondent: I need to feel you next to me.

S.J.: Same.
21. Early in the morning of July 11, 2019, the following text message exchange occurred:

Respondent: Im in the shower

S.J.: what's up?

Respondent: I cant stop thinking about you 

S.J.: we need to find a way to b together

Respondent: TOTALLY
22. On July 12, 2019, on behalf of S.J., respondent filed a Motion for Contempt with the domestic relations court.

¹ All quoted text messages appear exactly as they were written and have not been edited to correct grammatical or spelling errors.

23. The affidavit that respondent filed in support of the Motion for Contempt included an affidavit bearing the purported signature of S.J.
24. Before filing the Motion for Contempt, respondent forged S.J.'s signature on the affidavit and affixed his signature and notarial seal to the affidavit on July 11, 2019.
25. The affidavit's jurat falsely executed by respondent stated, "Sworn and subscribed to before me by S.J. on this 11th day of July 2019."
26. S.J. did not appear before respondent on July 11, 2019, nor did she sign the affidavit.
27. In another post-decree matter in *R.J. v. S.J.*, the court scheduled a hearing on a Motion to Show Cause for Property for August 21, 2019.
28. S.J. flew to Ohio from Arizona to attend the August 21, 2019 hearing.
29. After the hearing on August 21, 2019, respondent and S.J. engaged in sexual intercourse in S.J.'s hotel room.
30. On or about August 22, 2019, the following text message exchange occurred:
 - Respondent: Thank you for the afternoon delight!
 - S.J.: You're so welcome:)
 - Respondent: We are good together. I want u.
 - S.J.: I have 2 go hm
 - Respondent: Stay here
 - S.J.: For u?
 - Respondent: For me.
31. Within a week after August 21, 2019, respondent promised to provide S.J. with a home in Ohio, where respondent, S.J., and her children would live.

32. Based on respondent's promise, S.J. quit her job in Arizona and made plans to move back to Ohio to live with respondent.
33. On August 22, 2019, respondent filed a Motion to Modify Support on S.J.'s behalf.
34. Thereafter, the court set a hearing on the Motion to Modify Support for September 25, 2019.
35. S.J. flew to Ohio from Arizona on September 24, 2019, to attend the multi-day hearing, which began on September 25, 20219.
36. After the hearing on September 25, 2019, and for several consecutive days thereafter, respondent and S.J. had sexual intercourse in S.J.'s hotel room.
37. In early October 2019, as S.J. was returning to Arizona, respondent told S.J. that respondent had decided not to buy a house for them to live in together in Ohio.
38. Respondent told S.J. that the relationship was all a "game" and that she should go back to Arizona.
39. The day after respondent broke up with her, respondent sent S.J. the following text:

Respondent: Im gonna still be your attorney, ok?
40. When S.J. received the text message from respondent that is set forth in paragraph 39, S.J. immediately telephoned respondent.
41. During that telephone call, respondent told S.J. that respondent was concerned that respondent would get in trouble with Kaptain Krunch for having a sexual relationship with a client.
42. S.J. recorded her telephone call with respondent in which respondent expressed concern about getting in trouble for having a sexual relationship with a client.

43. In an email sent on or about October 15, 2019, S.J. informed Kaptain Krunch of respondent's misconduct and provided Kaptain Krunch with the text messages and a copy of the recorded phone call.
44. When confronted by Kaptain Krunch about the relationship with S.J., respondent denied all of S.J.'s allegations.
45. In October 2019, Kaptain Krunch removed respondent from S.J.'s case and assigned another associate to represent S.J.
46. On November 3, 2019, Kaptain Krunch fired respondent.
47. On April 9, 2021, S.J. filed a grievance against respondent.
48. In his April 30, 2021, response to relator's letter of inquiry, respondent falsely stated that respondent's relationship with S.J. never involved any sexual activity.
49. Respondent's conduct, as alleged above, violates the following Ohio Rules of Professional Conduct:
 - Prof.Cond.R. 1.8(j) (A lawyer shall not solicit or engage in sexual activity with a client unless a consensual sexual relationship existed between them when the client-lawyer relationship commenced);
 - Prof.Cond.R. 3.3(a)(1) (A lawyer shall not knowingly make a false statement of fact to a tribunal);
 - Prof.Cond.R. 8.1(a) (In connection with a disciplinary matter, a lawyer shall not knowingly make a false statement of material fact);
 - Prof.Cond.R. 8.4(c) (A lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation); and,
 - Prof.Cond.R. 8.4(h) (A lawyer shall not engage in any conduct that adversely reflects on the lawyer's fitness to practice of law).²

² Under *Disciplinary Counsel v. Bricker*, "In order to find a violation of Prof.Cond.R. 8.4(h), there must be clear and convincing evidence that the lawyer has engaged in misconduct that adversely reflects on the lawyer's fitness to practice law, even though that conduct is not specifically prohibited by the rules, or there must be proof that the conduct giving rise to a

Conclusion

Relator requests that respondent be found in violation of the Ohio Rules of Professional Conduct and be sanctioned accordingly.

Respectfully submitted,

/s Kelly Heile
Kelly Heile (0077777)
Bar Counsel
Bar Association of Upper Ohio
Lead Counsel for Relator

/s Donald Scheetz
Donald Scheetz (0044444)
Bar Counsel
Bar Association of Upper Ohio
75 Hillside Drive
Over the River, Ohio 44441
d.scheetz@bar.upperohio.org
Co-counsel for Relator

/s James Manken
James Manken (0033333)
Grievance Committee Chairperson
Suter, Suter & Associates LLC
21 Gateway Drive
Over the River, Ohio 44441
James.Manken@Suterlaw.com
Co-Counsel for Relator

specific rule violation is so egregious as to warrant an additional finding that it adversely reflects on the lawyer's fitness to practice law.” 137 Ohio St.3d 35, 2013-Ohio-3998, 997 N.E.2d 500. Here, the Prof.Cond.R. 8.4(h) violation is based on the egregiousness of respondent’s conduct.

Certificate

The undersigned, James Manken, Chair, Certified Grievance Committee, hereby certifies that Kelly Heile and Donald Scheetz are authorized to represent relator in the action and have accepted the responsibility of prosecuting the complaint to its conclusion.

Dated: January 30, 2022

/s James Manken

James Manken (0033333)

Grievance Committee Chairperson

Bar Association of Upper Ohio

**BEFORE THE BOARD OF PROFESSIONAL CONDUCT
OF THE SUPREME COURT OF OHIO**

Bar Association of Upper Ohio

Relator,

v.

Case No. 2022-003

Pat H. Lockhart
Attorney Registration No. 0000000

Respondent.

Stipulations

Relator, Bar Association of Upper Ohio, and respondent, Pat H. Lockhart, submit the following stipulations of fact, rule violations, mitigating factors, aggravating factors, and exhibits. The parties reserve the right to enter additional factual evidence and exhibits, including evidence of mitigating and aggravating factors, during the hearing on this matter.

Stipulated Facts

1. Respondent, Pat H. Lockhart, was admitted to the practice of law in the state of Ohio on November 16, 2014.
2. Respondent is subject to the Rules of Professional Conduct and the Rules for the Government of the Bar of Ohio.
3. On November 1, 2016, the Supreme Court of Ohio suspended respondent from the practice of law for failing to timely register as an attorney. *In re Attorney Registration Suspension of Lockhart*, 123 Ohio St.3d 541, 2016-Ohio-401, 956 N.E.3d 313. The court reinstated Lockhart eight days later.

4. On December 10, 2018, S.J. retained Kaptain Krunch & Associates LLC (Kaptain Krunch) to represent her in her divorce. *R.J. v. S.J.*, Lake View County Domestic Relations Court, Case No. DR-18-XXXX.
5. S.J. signed an agreement with Kaptain Krunch to pay a \$5,000 flat fee for representation in her divorce.
6. In or about December 2018, Kaptain Krunch hired respondent as an associate attorney.
7. Kaptain Krunch assigned respondent to handle S.J.'s divorce.
8. Before she hired Kaptain Krunch, S.J. did not know or have a relationship with respondent.
9. At the time respondent was assigned to S.J.'s case, S.J. was living and working at an addiction rehabilitation facility in Arizona from which she graduated in 2017.
10. During this timeframe, S.J.'s children lived in City View, Ohio with their father, R.J.
11. At all times relevant to the allegations of misconduct in this formal complaint, S.J. did not possess the financial resources to move back to Ohio.
12. The *R.J. v. S.J.* divorce was resolved by an agreement between the parties and finalized by the court in June 2019.
13. S.J. was present in court for the final hearing on her divorce but returned to Arizona immediately after the hearing.
14. After her divorce was final, respondent continued to represent S.J. on post-decree actions and other related legal issues as they arose.
15. Respondent and S.J. had contact with each other via email or telephone at least every other day.

16. In or around early July 2019, respondent and S.J. began sending sexually suggestive text messages to each other.
17. On the evening of July 3, 2019, the following text message exchange occurred:

Respondent: I can't sleep thinking about u.¹

S.J.: I cant sleep either 

Respondent: I need to feel you next to me.

S.J.: Same.
18. Early in the morning of July 11, 2019, the following text message exchange occurred:

Respondent: Im in the shower

S.J.: what's up?

Respondent: I cant stop thinking about you 

S.J.: we need to find a way to b together

Respondent: TOTALLY
19. On July 12, 2019, on behalf of S.J., respondent filed a Motion for Contempt with the domestic relations court.
20. The affidavit that respondent filed in support of the Motion for Contempt included an affidavit bearing the purported signature of S.J.
21. Before filing the Motion for Contempt, respondent signed S.J.'s signature on the affidavit and affixed his signature and notarial seal to the affidavit on July 11, 2019.
22. The affidavit's jurat falsely executed by respondent stated, "Sworn and subscribed to before me by S.J. on this 11th day of July 2019."
23. S.J. did not appear before respondent on July 11, 2019, nor did she sign the affidavit.

¹ All quoted text messages appear exactly as they were written and have not been edited to correct grammatical or spelling errors.

24. In another post-decree matter in *R.J. v. S.J.*, the court scheduled a hearing on a Motion to Show Cause for Property for August 21, 2019.
25. S.J. flew to Ohio from Arizona to attend the August 21, 2019 hearing.
26. After the hearing on August 21, 2019, respondent and S.J. engaged in sexual intercourse in S.J.'s hotel room.
27. On or about August 22, 2019, the following text message exchange occurred:
 - Respondent: Thank you for the afternoon delight!
 - S.J.: You're so welcome:)
 - Respondent: We are good together. I want u.
 - S.J.: I have 2 go hm
 - Respondent: Stay here
 - S.J.: For u?
 - Respondent: For me.
28. Within a week after August 21, 2019, respondent promised to provide S.J. with a home in Ohio, where respondent, S.J., and her children would live.
29. Between August 21 and September 15, 2019, S.J. quit her job in Arizona and made plans to move back to Ohio to live with respondent.
30. In August 2019, the court set a hearing on a Motion to Modify Support for September 25, 2019.
31. S.J. flew to Ohio from Arizona on September 24, 2019, to attend the multi-day hearing on the Motion to Modify Support. The hearing began on September 25, 2019.
32. After the hearing on September 25, 2019, and for several consecutive days thereafter, respondent and S.J. had sexual intercourse in S.J.'s hotel room.

33. In early October 2019, as S.J. was returning to Arizona, respondent told S.J. that respondent had decided not to buy a house for them to live in together in Ohio.
34. If called to testify, S.J. would state that upon receiving respondent's call, she felt angry, used, and worthless, and immediately called her sponsor to help avoid a relapse due to the stress of the situation.
35. The day after respondent broke up with her, respondent sent S.J. a text that stated, "Im gonna still be your attorney, ok?"
36. When S.J. received the text message that is set forth in paragraph 35, S.J. telephoned respondent.
37. During that telephone call, respondent told S.J. that respondent was concerned that respondent would get in trouble with Kaptain Krunch for having a sexual relationship with a client.
38. S.J. recorded her telephone call with respondent in which respondent expressed concern about getting in trouble for having a sexual relationship with a client.
39. In an email sent October 15, 2019, S.J. told Kaptain Krunch about her relationship with respondent.
40. S.J. provided Kaptain Krunch with the text messages and a copy of the recorded phone call.
41. When confronted by Kaptain Krunch about the relationship with S.J., respondent falsely denied all of S.J.'s allegations.
42. In October 2019, Kaptain Krunch removed respondent from S.J.'s case.
43. In November 2019, Kaptain Krunch fired respondent.
44. On April 9, 2021, S.J. filed a grievance against respondent.

45. In his April 30, 2021, pro se response to relator's letter of inquiry, respondent falsely stated that respondent's relationship with S.J. never involved any sexual activity.
46. On March 1, 2022, respondent executed a three-year contract with the Ohio Lawyers Assistance Program (OLAP).

Stipulated Rule Violations

47. The parties agree that respondent's conduct violates the Ohio Rules of Professional Conduct, specifically:
 - Prof.Cond.R. 1.8(j) (A lawyer shall not solicit or engage in sexual activity with a client unless a consensual sexual relationship existed between them when the client-lawyer relationship commenced);
 - Prof.Cond.R. 3.3(a)(1) (A lawyer shall not knowingly make a false statement of fact to a tribunal);
 - Prof.Cond.R. 8.1(a) (In connection with a disciplinary matter, a lawyer shall not knowingly make a false statement of material fact); and,
 - Prof.Cond.R. 8.4(c) (A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation).

Aggravation and Mitigation

48. Relator and respondent stipulate to the following aggravating factors as listed in Gov.Bar R.V(13)(B):
 - a. Prior disciplinary offense;
 - b. A selfish motive;
 - c. Multiple offenses;
 - d. The submission of a false statement during the disciplinary process; and,
 - e. The vulnerability of and resulting harm to victims of the misconduct.

49. Relator and respondent stipulate to the following mitigating factors as listed in Gov.Bar R. V(13)(C):

- a. Post-complaint cooperation in the disciplinary process; and,
- b. Positive character evidence.

Stipulated Exhibits

The parties stipulate to the authenticity and admissibility of the following exhibits:

- | | |
|------------|---|
| Exhibit 1 | Attorney Registration Information, Pat Lockhart |
| Exhibit 2 | Attorney Registration Suspension, November 1, 2016 |
| Exhibit 3 | Motion for Contempt filed July 12, 2019, <i>R.J. v. S.J.</i> , Lake View County Domestic Relations Court, Case No. DR-18-XXXX |
| Exhibit 4 | Text Messages Between Respondent and S.J., Various Dates |
| Exhibit 5 | Audio Recording of Telephone Call Between Respondent and S.J., October 3, 2019 |
| Exhibit 6 | Email from S.J. to Kaptain Krunch, October 15, 2019 |
| Exhibit 7 | Response to Letter of Inquiry, April 30, 2021 |
| Exhibit 8 | OLAP Contract, March 1, 2022 |
| Exhibit 9 | Report of Dr. Leo Marvin, April 19, 2022 |
| Exhibit 10 | Character Letters |

Conclusion

The undersigned parties enter into the above stipulations this 17th day of April, 2022.

Respectfully submitted,

/s Kelly Heile

Kelly Heile (0077777)
Bar Counsel
Bar Association of Upper Ohio
Lead Counsel for Relator

Via Email Authorization

/s Pat H. Lockhart

Pat H. Lockhart (0000000)
Respondent

/s Donald Scheetz

Donald Scheetz (0044444)
Bar Counsel
Bar Association of Upper Ohio
75 Hillside Drive
Over the River, Ohio 44441
d.scheetz@bar.upperohio.org
Co-counsel for Relator

Via Email Authorization

/s George D. Jonson

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Lisa M. Zaring (0080659)
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Counsel for Respondent

/s James Mankin

James Mankin (0033333)
Grievance Committee Chairperson
Suter, Suter & Associates LLC
21 Gateway Drive
Over the River, Ohio 44441
James.Manken@Suterlaw.com
Co-Counsel for Relator

Certificate of Service

I certify that a true and correct copy of the foregoing Stipulations was served on respondent's counsel, George Jonson and Lisa Zaring, via electronic mail at gjonson@mojolaw.com and lzaring@mojolaw.com on this 17th day of April 2022.

/s Kelly Heile
Kelly Heile (0077777)
Lead Counsel for Relator

Attorney Information

Attorney Registration Number

00000

Name

Pat H. Lockhart

Current Status

Active

[View Status Definitions](#)

Employer

Self

Job Title

Attorney at Law

Address

1180 Belleview Terrace, Suite 5
Everywhere, Ohio 44444
Lake View County

Business Phone Number

555-555-5555

Law School

Ohio School of Law

Admission Date

November 16, 2014

**JOINT
EXHIBIT**
1

Admitted By

By Exam

Discipline History

NO

Administrative Sanctions and Suspensions

YES

[View Sanctions And Suspensions](#)**Administrative Sanctions and Suspensions**

Disciplinary Action	Effective Date
Attorney Registration Suspension	11-01-2016
Attorney Registration Reinstatement	11-09-2016

Court pursuant to **Gov. Bar R. VI and X** (<https://supremecourt.ohio.gov/LegalResources/Rules/govbar/govbar.pdf#Rule10>) , including suspensions for failing to comply with continuing legal education ("CLE") and attorney registration requirements, are displayed here. For additional information regarding a CLE sanction entered for the 2007 reporting period and earlier, please contact the Clerk's Office at 614.387.9530. For information regarding a CLE sanction entered for the 2008 reporting period and subsequent reporting periods, please contact the **Office of Attorney Services** (<mailto:attyreg@sc.ohio.gov>) at 614.387.9320.

i The address and telephone information found in this listing has been provided to the Office of Attorney Services by the attorney. The directory lists an attorney's business address. An attorney's residence address is displayed **only** if the attorney has not provided a valid business address. See, **Gov. Bar R. VI, Sec. 1(G)** (<https://supremecourt.ohio.gov/LegalResources/Rules/govbar/govbar.pdf#Rule6>). "Invalid" next to the address indicates that mail sent to this address has been returned as undeliverable or that the attorney has not provided a complete mailing address. Also note that the record displays the attorney's current name on file in our records.

[Back To Search Options](#)

SUPREME COURT OF OHIO

In re Attorney Registration Suspension

Pat Lockhart
Respondent.

(0000000)

ORDER OF SUSPENSION

Gov.Bar R. VI(2) requires attorneys admitted to the practice of law in Ohio to file a certificate of registration for the 2016/2018 attorney-registration biennium on or before September 1, 2016. Gov.Bar R. VI(10)(A) establishes that an attorney who fails to file the certificate of registration on or before September 1, 2016, but pays within 60 days of the deadline shall be assessed a late fee. Gov.Bar R. VI(10)(B) provides that an attorney who fails to file a certificate of registration and pay the fees either timely or within the late-registration period shall be notified of apparent noncompliance and that if the attorney fails to file evidence of compliance with Gov.Bar R. VI or to come into compliance within 60 days of the deadline, the attorney will be suspended from the practice of law.

Respondent has not registered for the 2016/2018 attorney-registration biennium on or before September 1, 2016, and has not filed evidence of compliance with Gov.Bar R. VI or come into compliance with this rule within 60 days of the deadline.

Upon consideration thereof and in accordance with Gov.Bar R. VI(10)(B), respondent is hereby suspended from the practice of law in Ohio, effective as of the date of this order.

IT IS FURTHER ORDERED that respondent immediately cease and desist from the practice of law in any form and is hereby forbidden to appear on behalf of another before any court, judge, commission, board, administrative agency, or other public authority.

**JOINT
EXHIBIT**

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IT IS FURTHER ORDERED that effective immediately, respondent be forbidden to counsel or advise or prepare legal instruments for others or in any manner perform legal services for others.

IT IS FURTHER ORDERED that respondent shall not practice law in Ohio; hold himself or herself out as authorized to practice law in Ohio; hold nonfederal judicial office in Ohio; occupy a nonfederal position in this state in which the attorney is called upon to give legal advice or counsel or to examine the law or pass upon the legal effect of any act, document, or law; be employed in the Ohio judicial system in a position required to be held by an attorney; or practice before any nonfederal court or agency in this state on behalf of any person except himself or herself.

IT IS FURTHER ORDERED that if respondent fails to comply with this order, respondent may be referred for investigation of the unauthorized practice of law under Gov.Bar R. VII.

IT IS FURTHER ORDERED that respondent is hereby divested of each, any, and all rights, privileges, and prerogatives customarily accorded to a member in good standing of the legal profession in Ohio.

IT IS FURTHER ORDERED that notwithstanding respondent's suspension under Gov.Bar R. VI, respondent shall comply with Gov.Bar R. X ("Continuing legal education").

IT IS FURTHER ORDERED that respondent shall not be reinstated to the practice of law in Ohio until (1) respondent files certificates of registration for all biennia for which respondent has not registered, (2) respondent pays all applicable registration fees, (3) respondent pays the reinstatement fee set forth in Gov.Bar R. VI(10)(D), (4) respondent files an application for

reinstatement on a form provided by the Office of Attorney Services, and (5) the Office of Attorney Services reinstates respondent to the practice of law.

IT IS FURTHER ORDERED that respondent shall keep the Office of Attorney Services advised of any change of address where respondent may receive communications.

IT IS FURTHER ORDERED that service shall be deemed made on respondent by sending this order, and all other orders in this matter, by certified mail to the most recent address respondent has provided to the Office of Attorney Services.

/s Chief Justice

Date: November 1, 2016



FILED

IN THE COURT OF COMMON PLEAS
DIVISION OF DOMESTIC RELATIONS
LAKE VIEW COUNTY, OHIO

2019 JUL 12 A 10:59

CLERK OF COURTS
LAKE VIEW COUNTY

R [REDACTED] J [REDACTED]

Plaintiff

vs.

S [REDACTED] J [REDACTED]

Defendant

CASE NO. DR18 [REDACTED]
JUDGE JUDY RULE

MOTION FOR CONTEMPT

ORIGINAL
JUL 12 2019
LAKE VIEW COUNTY
CLERK OF COURTS

Now comes, Defendant, S [REDACTED] J [REDACTED], by and through her undersigned counsel, and affirmatively asks this Honorable Court to enforce the Plaintiff, R [REDACTED] J [REDACTED], to appear and to show good cause why he should not be found in contempt for violating the parties Divorce Decree that was issued on June 3rd, 2019. The reasonings for this Motion are more fully explained in the Memorandum in Support that is attached hereto and incorporated herein.

CERTIFICATE OF SERVICE

A true and accurate copy of the foregoing Defendant's Motion for Contempt was sent via Electronic Service to the Plaintiff's Attorney, Lisa Lawyer at LLawyer@law.com on this 11th Day of July 2019.

\$ 50 DEPOSITED
JUL 12 2019
SECURE COSTS
LAKE VIEW COUNTY Clerk of Courts
Per [Signature] Deputy

Respectfully submitted,

Pat Lockhart

Pat Lockhart (0000000)
Kaptain Krunch & Associates LLC
123 Park Drive
Scenic, Ohio 44443
Counsel for Defendant

JOINT EXHIBIT
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NOTICE

1. Failure to Appear may result in the issuance of an order of arrest.
2. You have the right to counsel. If you are indigent (as determined by the Court), you may have court appointed counsel.
3. The Court may refuse to grant a continuance at the time of the hearing for obtaining counsel if you fail to make a good faith effort to retain counsel and are not indigent.
4. If you are found guilty of contempt the court may impose any of the following penalties:

FIRST OFFENSE: A fine of not more than \$250.00, a definite term of imprisonment of not more than 30 days in jail, or both;

SECOND OFFENSE: A fine of not more than \$500.00, a definite term of imprisonment of not more than 60 days in jail, or both; or

THIRD OR SUBSEQUENT OFFENSES: A fine of not more than \$1000.00, a definite term of imprisonment of not more than 90 days in jail, or both.

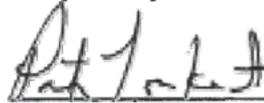
MEMORANDUM IN SUPPORT

An Entry for a Judgment Entry for Divorce, and Separation Agreement were entered into by the parties on June 3rd, 2019. Pursuant to the Judgment Entry, regarding the Marital Home, the Defendant was entitled to receive her fair share of the equity from the marital home *See Defendant's Exhibit A, Page 11*. According to Page 3 of the parties Separation Agreement, the Marital Home had a cost of \$130,000 according to the appraised value. The Defendant was entitled to receive her fair share, which, was \$65,000

See Defendant's Exhibit B, Page 3. However, on July 5th, 2019 the Plaintiff received \$63,135 and neglected to provide the Defendant with her equitable portion. Instead, looking at Defendant's Exhibit C, is a picture of his checking account, whereby, he received \$66,587.60. The Plaintiff transferred only \$62,000 into the Defendant's account and told her "He needed the remaining \$3,000 for the party's children". This is improper conduct by the Plaintiff because he can't pick and choose how much the Defendant receives because it's pursuant to the agreed upon Court Order.

WHEREFORE, Defendant, respectfully requests this Court to find Plaintiff in contempt of this Court, and to order the Plaintiff to come before this Court and show Good Cause why he should not be found in Contempt..

Respectfully submitted,



Pat Lockhart (0000000)
Kaptain Krunch & Associates LLC
123 Park Drive
Scenic, Ohio 44443
Counsel for Defendant

CERTIFICATE OF SERVICE

A true and accurate copy of the foregoing Motion for Contempt was sent via Electronic Service to the Plaintiff's Attorney, Lisa Lawyer at LLawyer@law.com this 11th Day of July 2019.

Respectfully submitted,



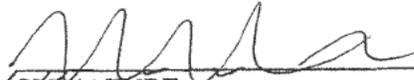
Pat Lockhart (0000000)
Kaptain Krunch & Associates LLC
123 Park Drive
Scenic, Ohio 44443
Counsel for Defendant

STATE OF OHIO)
LAKE VIEW COUNTY)

SS: AFFIDAVIT

I, S [REDACTED] J [REDACTED], having been first duly sworn according to law, hereby state and affirm that:

1. I, S [REDACTED] J [REDACTED] was previously married to the Plaintiff, R [REDACTED] J [REDACTED]
 2. That pursuant to the Judgment Entry for Divorce and the Separation Agreement I was set to receive \$63,135 pursuant to my equitable value in my share of the marital home.
 3. That Plaintiff received that amount and transferred only \$62,000 to me.
 4. That his reasoning was because "He needed the money for the Children".
 5. That I request this cause to force the Plaintiff to provide the remaining \$3,000 and to find him guilty of Contempt.
- FURTHER AFFIANT SAYETH NAUGHT.


SIGNATURE

Sworn to and subscribed before me this 11th day of July, 2019.


NOTARY PUBLIC

PAT LOCKHART, ATTORNEY AT LAW
NOTARY PUBLIC • STATE OF OHIO
My commission has no expiration date
Section 147.03 O.R.C.



●●○○ AT&T LTE

9:42 AM

↑ 80% 

 Back

Pat Lockhart

Contact

Thu, Jul 11 2019, 6:55 AM

Im in the shower

what's up?

I cant stop thinking about you



we need to find a way to b
together

TOTALLY



iMessage

Send

●●○○ AT&T LTE

9:44 AM

↑ 80% 

[← Back](#)

Pat Lockhart

[Contact](#)

Thu, Aug 22 2019, 2:03 AM

Thank you for the afternoon
delight!

You're so welcome:)

We are good together. I want
u.

I have 2 go hm

Stay here

For u?

For me.



iMessage

Send

●●○○ AT&T LTE

9:47 AM

↑ 80% 

[← Back](#)

Pat Lockhart

[Contact](#)

Thu, Oct 3 2019, 10:31 PM

Im gonna still be your attorney, ok?



iMessage

Send

Audio Recording of Telephone Call Between Respondent and S.J., October 3, 2019

JOINT
EXHIBIT
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To: KaptianKrunch@KKLAW.com

From: SJ106@gmail.com

Date: October 15, 2019

Dear Mr. Krunch,

I trusted Pat as my lawyer. Over the past few months, Pat and I had begun a romantic relationship. He told me several times that he wanted me to move from Arizona to Ohio so that me and my children could live with Pat and start over. I relied on him and quit my job as a counselor and rented a truck. In September, after my hearing, we had sex at my hotel room on several occasions. When I told Pat that I needed to return to Arizona to finish packing for the move back to Ohio, Pat told me it was over and that I had been “played.” I was an emotional wreck on the flight back to Arizona. I almost relapsed but pulled it together. I am including with this email a telephone recording of our final call, along with the screen shots of the text messages that Pat sent. I thought lawyers were supposed to be honest and ethical. I bet this was not the first time that Pat has taken advantage of a client. Stephanie.

JOINT
EXHIBIT

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Pat H. Lockhart

Attorney-at-Law
1180 Belleview Terrace, Suite 5
Everywhere, OH
555-555-5555
phllaw@net.com

April 30, 2021

Dear Ms. Heile,

Thank you for the opportunity to respond to the Letter of Inquiry that I received from your office on April 13, 2021. I deny an inappropriate sexual relationship with Ms. Johnson.

By way of background, I met Ms. Johnson just a few days after I was hired as an associate with the Kaptain Krunch law firm in Over the River, OH. I had no idea that she paid the firm \$5,000, as I was on salary. I never charged her for post-decree matters because the secretary at the firm, Sheila Toms (555-500-0001), told me she was paid-in-full. I was not involved in billing, so I will not address her requests for a refund.

The owner of the firm, Kaptain, asked me to handle the matter because of my experience in domestic relations matters. He advised me that Ms. Johnson had “issues” and that “she would be a handful.” You can reach Kaptain at 555-500-0001 to verify his statements about Ms. Johnson. Because Ms. Johnson was living and working in Arizona, most of our contact was by phone or text message. I believe I met her in person on two occasions—a hearing in August 2019 and another hearing in September 2019. But I spoke to her constantly, as she was a client who required much attention. I was aware through my conversations with her that she suffered from alcohol addiction, that she was in recovery, and had graduated from her program. By the time I took over her divorce, she had begun working at the rehab center. I finalized her divorce within six months, and she was very happy with the result. She sent me a Thank You card a week later.

The ink was barely dry on the decree when Ms. Johnson and her ex-husband began arguing over the terms of the decree, which led to my continued representation of

JOINT
EXHIBIT

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her. Because Ms. Johnson was of limited means, I offered to drive her back to her hotel after the hearings so that she would not have to spend money on an Uber. She agreed. I admit that on the first occasion, I brought a six-pack of beer to celebrate our success that day. Quite frankly, that was very poor judgment on my part. I should have been more considerate of Ms. Johnson's recovery efforts. Although we were friends, and enjoyed a close relationship, we never had sex. And I have never been romantically involved with any client.

I am not surprised, however, that Ms. Johnson filed a grievance against me. She has had a difficult life. She told me that she has at least three convictions including for theft and forgery. While I wish her no ill-will, I question her motives with the filing of her grievance. She is requesting a full refund despite my negotiation of a favorable divorce settlement and prevailing in both post-decree matters. My understanding is that she has since obtained custody or visitation with her children. I believe my advocacy laid the groundwork for her success.

Should you have any questions, please do not hesitate to contact me. Given the sensitive information contained herein, I ask that you not share my response with Ms. Johnson.

Sincerely,

s: *Pat Lockhart*

Pat Lockhart



Ohio Lawyer's Assistance Program

1650 Lake Shore Drive, Suite 375, Columbus, Ohio 43204-4991
Tel. 800-348-4343 614-586-0621 Fax: 614-586-0633
www.ohiolap.org

SCOTT R. MOTE, Esq.
EXECUTIVE DIRECTOR

MEGAN R. SNYDER, MSW, LISW
CLINICAL DIRECTOR

BEVERLY ENDSLOW, CDCA
CLINICAL ASSISTANT

Cincinnati Office:
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ASSOCIATE DIRECTOR
513-623-9853

Cleveland Office:
PAUL A. CAIMI, J.D., LCDC-III, ICADC
ASSOCIATE DIRECTOR
800-618-8606

OHIO LAWYERS ASSISTANCE PROGRAM, INC.
MENTAL HEALTH CONTRACT

WHEREAS, Pat Lockhart:

by order of the Supreme Court of Ohio dated ..., participation in the program offered by the Ohio Lawyers Assistance Program, Inc. (OLAP) is required, and/or,
is obligated by reason of an agreement with OLAP to participate in the program offered by OLAP, and/or,
is currently involved in the Supreme Court of Ohio disciplinary process, and/or,
is applying for admission to the Ohio bar, and/or,
has been diagnosed as suffering from a mental health or related disorder(s), and desires assistance from and participation in the program offered by OLAP, and

WHEREAS, OLAP is a not-for-profit Ohio corporation organized by the Ohio State Bar Association to provide evaluation, rehabilitation, and assistance to attorneys suffering from mental health or related disorder(s), and to provide monitoring and reporting services in connection therewith.

NOW, THEREFORE, the parties agree as follows:

I, Pat Lockhart agree to:

- 1. Report to Dr. Leo Maerwin for an assessment to determine diagnosis, appropriate level of care, and treatment recommendations no later than 4/15/22.
2. Renegotiate the terms of this Agreement upon receipt of the above evaluation if required by OLAP.
3. Totally refrain from the use of all mood altering substances, including alcohol.
4. Prior to the use of any mood altering/psychoactive prescription medication, I agree to notify the prescribing physician that I am under contract with OLAP, and request that the physician notify OLAP in writing that he/she has knowledge of my chemical dependency (if any), identify the drug or drugs prescribed, and advise of the reason for said prescription.



5. Provide OLAP with the name, address and telephone number of each physician and other mental health professional(s) treating me, and I authorize OLAP to obtain any information desired from said professionals.

6. I have selected as my primary physician, Dr. Spock, located at Douglas' Horizon East, with telephone number 555-444-3333

7. I agree to obtain treatment from my primary physician and mental health professional(s), and to provide free and unlimited release of all information concerning my health and participation in treatment to OLAP.

8. I understand the need for and have requested that my primary physician, as well as any other treating professional(s), notify OLAP immediately of the following:

- a. failure to comply with or progress in treatment;
- b. any change of medication;
- c. discontinuation of therapy;
- d. change of treating professional(s);
- e. failure to appear for appointments, continue prescribed medications or cooperate in the therapeutic process.

9. Accept Bel Gordon as Monitor of my performance under this contract and I assume the responsibility of making at least one personal contact per week with my Monitor, in addition to other therapy sessions recommended by my Monitor, treating physician and/or mental health professional(s).

10. Provide my OLAP Monitor with whatever substantiating documentation the monitor may require to assure compliance with this contract.

11. Provide OLAP with notification of any changes in my physical or mental health, address, phone number, or employment.

12. If available and endorsed by my Monitor, actively participate in a facilitated support group for recovering professionals.

13. If therapeutically indicated, submit to and pay for random urine drug/alcohol screens at the direction of OLAP.

14. Provide appropriate signed release forms for urine/blood laboratory results, treatment center records, psychiatric or mental health records, physician or therapist reports and other written and verbal information required to assure compliance with the terms of this Agreement.

15. Participate in continuing private and/or group therapy as required by OLAP, treating physician, mental health professional(s) or Monitor.

16. Immediately notify OLAP as well as my monitor in the event I use any mind or mood altering substances without a prescription from the physician above or any new physicians that may not be aware of my condition(s).

17. Agree to pay OLAP \$50/\$100/\$200 per month monitoring fee for each month under contract. You may send a check or money to the address listed on this contract or pay with Visa, MC, Discover, or AExp thru LawPay at <https://secure.lawpay.com/pages/ohiolap/operating>

18. Involve my family in continuing supportive care as suggested by OLAP, my Monitor, my physician and my mental health professional(s).

19. Make appropriate restitution, if applicable.

20. To perform in accordance with each and every term contained in any court order and this agreement.

21. To the modification of these Contract terms as required by my monitor and dictated by a change in circumstances.

OLAP agrees to:

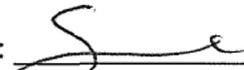
1. Provide a trained and/or certified individual to monitor the performance required by this Contract.
2. Insofar as treatment and ability to practice law is concerned, and where applicable, assume an advocacy role before any Commission, Court, Agency or with any Employer or other person to whom Participant must report or account.
3. Assume the responsibility to hold this Contract and all information acquired in furtherance thereof in strict confidence unless released from such obligation in writing.
4. Assume the responsibility to report compliance or non-compliance with this Contract to the appropriate person (this report may also be made by the Monitor).

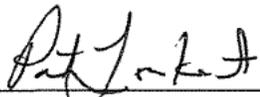
This Contract shall remain in effect for Three (3) years from the date of execution and may be extended by order of the Court or agreement of the parties.

Date: 3/1/22

Date: 3/1/22

**OHIO LAWYERS ASSISTANCE
PROGRAM, INC.**

By: 
Scott R. Mote, Esq.
Megan R. Snyder, MSW, LSW
Paul A. Caimi, J.D., LCDC-III, ICADC
Patrick J. Garry, Esq.
Beverly A. Endslow, CDCA


Participant
Pat Lockhart
Print Name

Leonard Marvin, MD

Phone (614) 555-1212

Adult Psychiatry

Board Certified in Psychiatry

April 19, 2022

Heather Zirke, Esq.
The Zirke Law Firm, LLC
65 E. State Street, Suite 1100
Cleveland, OH 44105

Re: ODC v. Lockhart, Case No. 22-003

Dear Ms. Zirke,

At your request I saw Pat Lockhart, an attorney licensed in Ohio and the respondent in the above referenced case, for a psychiatric examination on April 5, 2022. I interviewed and examined him for two hours. I read the file that was provided from your office including the original complaint, respondent's contract with the Ohio Lawyers' Assistance Program, notes from his treating psychiatrist, and a transcript of respondent's deposition.

History:

Respondent first sought treatment with Dr. Trapper John on March 13, 2022. As of the date of my examination, he had been treating with Dr. John for three weeks. He has attended six, one hour counseling sessions. He reports symptoms of depressed moods, low energy, and diminished interest. He is not taking any prescription medication, nor has any been prescribed. He has no history of alcohol or substance abuse. He entered into a one-year contract with OLAP on March 1, 2022.

Past Psychiatric History

Respondent reported no history of psychiatric treatment or diagnosis. Until the underlying grievance was filed against him, he had never experienced any sustained period of depression. The record points to previous periods of stress and situational depression when he studied for the bar examination.

Mental Status Examination Findings

Respondent presented was on time, oriented, and alert during his examination. There was no observable cognitive deficit. He made good eye contact. He revealed his mood as generally sad and depressed. There was no evidence of euphoria. His insight and judgment were intact. He has an awareness and appreciation for his current impairment and the possible difficulties it may

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Heather Zirke, Esq.

April 19, 2022

Page 2

present for his legal practice in the future. He is contrite and remorseful about his prior misconduct and recognizes the seriousness of the offense.

Diagnosis and Discussion

In reviewing all available data, and based on the current psychiatric examination, the following opinions are rendered within a degree of reasonable medical certainty.

DSM Diagnosis:

Major depressive disorder, recurrent (F33)

In my opinion Respondent suffers from recurrent major depressive disorder and is in need of a course of continued treatment that includes individual psychotherapy with a qualified psychologist. His current condition presents some minor impairment to his ability to practice law but can be expected to diminish over time if he continues with his treatment. To date, his participation in visits since he began treatment three weeks ago has been exemplary.

The mere existence of the underlying disorder does not render him unfit from practicing law. In my opinion, his acknowledgement of the seriousness of his admitted misconduct and the pending consequences from the current disciplinary process have played a role in triggering his disorder. Provided that his treatment continues, recommendations of his psychiatrist are followed in a consistent manner, and with continued monitoring by OLAP, his disorder does not in and of itself preclude him from engaging in the competent and ethical practice of law.

Sincerely,

Leo Marvin, M.D.

April 12, 2022

Dear Ms. Zaring,

Pat Lockhart represented me in a DUI just after he graduated from law school. My brother referred me to him. My case was complicated by the fact that the police officer was placed on leave for his own DUI just days after my arrest. Pat went above and beyond in defending me and ultimately got my case dismissed. I have referred other people to Pat, and no one has ever complained.

Pat is a good person. After my case, we stayed in touch, and he even took me and my son to a ball game. I have worked for 15 years as a machinist in the Pipefitters Union Local 188, and I am also a union representative. I have dealt with a lot of lawyers. I would recommend Pat over all of them. He cares about people and is not in it for the money.

I am not familiar with the charges against Pat, but I am available to testify to Pat's character.

/s Tommie Dietz
714-891-4848

JOINT
EXHIBIT
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Over the River Common Pleas Court

April 15, 2022

To the Board of Professional Conduct,

I received a subpoena requesting a character letter on behalf of Attorney Pat Lockhart. It is my understanding that I am permitted under the Code of Judicial Conduct to provide this testimony in letter format. Before writing this letter, I reviewed the complaint in its entirety, and recently read the stipulations that were filed with the Board of Professional Conduct. I have also spoken to Mr. Lockhart about this matter.

I have been a judge in the Over the River Common Pleas Court for 24 years. During my time, I have known countless lawyers, the overwhelming majority of whom are ethical, competent, caring, and professional. Mr. Lockhart falls into that category notwithstanding the charges pending before you.

Before this incident, Mr. Lockhart enjoyed a favorable reputation in our legal community. I would characterize him as honest, forthright, hard-working, and caring. In my court, I appointed him in complex cases despite his experience level, as he seemed to welcome the challenges and he always advocated well for his clients. Mr. Lockhart was passionate about his cases, prompt, and professional. I never encountered any issues with Mr. Lockhart in my courtroom.

I must admit that the charges caught me by surprise, and they caused me to reflect on our interactions. But in doing so, I came to the same conclusion—Mr. Lockhart is an honorable attorney notwithstanding the

disturbing facts surrounding his misconduct. After speaking with Mr. Lockhart, I feel confident that this was an aberration, and one that he fully accepts. I trust that he will learn from these mistakes and work diligently to regain the trust and confidence that he built in our community.

Please do not hesitate to contact me if you have further questions.

s/ Regina Kurbase

JENNIFER RAMOS

The Law Office of Jennifer Ramos

250 Center Drive, Suite 12

Over the River, OH 44441

714-229-1200

Jramoslaw.com

April 23, 2022

Dear Members of the Board of Professional Conduct,

It is my pleasure to write this character letter on behalf of my close friend and colleague, Attorney Pat Lockhart. Please know that I have read the entire complaint and have spoken to Pat about this most unfortunate situation several times over the past year.

By way of background, Pat and I went to Akron Law School and graduated in 2015. Since that time, we have been close friends, and I have referred several clients to Pat, several of whom Pat represented pro bono. Despite the allegations, I can attest to Pat's exemplary character—he is kind, warm, attentive, thorough, and highly intelligent. On several occasions, I have called Pat with complex legal issues, and he always takes the time to think through my questions or offer further guidance.

When I heard about the allegations, I was shocked. Pat informed me that he was under investigation and later divulged the context. As you are aware, Pat suffers from depression, and while it is not my place to opine, it seems this condition influenced his behavior, as it was so out of character.

Pat has been honest and forthright, and I understand that he has admitted the allegations. That is no surprise. Pat is a stand-up person, and he has accepted responsibility for his transgressions.

I hope this panel will listen to Pat's story with compassion as all lawyers make mistakes. Pat has assured me that, through introspection and counseling, he will not repeat the same mistakes. In my opinion, removing Pat from the practice of law would be a disservice to Ohio's citizens. A reprimand or a stayed suspension would protect the public.

Thank you for the opportunity to submit this letter in support of Pat. Should you have any questions, please do not hesitate to contact me.

Sincerely,

s/Jennifer Ramos

Jennifer Ramos

**CASELAW
UPDATE**

Miller Becker Case Law Update

I. Judicial Misconduct

[*Disciplinary Counsel v. Berry*, 166 Ohio St.3d 112, 2021-Ohio-3864.](#)

Sanction: Six-month stayed suspension.

Rules Violated: Jud.Cond.R. 1.2.

Respondent sent a Facebook friend request to a new court reporter, Jane Doe. Doe was not assigned to his courtroom but accepted the request. Respondent and Doe began to exchange messages and Respondent invited her to meet in person in his chambers. Additional messages were exchanged concerning various topics including their respective divorces. Respondent then asked for Doe's cellphone number and suggested that they talk over the weekend. The parties stipulated that if Doe had testified, she would have stated that she gave the judge her phone number because she felt like she could not refuse, considering Respondent's status. Respondent called Doe and she stated that he sounded intoxicated and used profanity. He also asked her out to lunch but she declined. He later sent her a message that he had an "offer you can't refuse." Doe did not subsequently stop by his office. Respondent testified that he would have offered her tickets to an event for her and her children. He later sent Doe a message asking her out for lunch or drinks. Doe did not reply to his message. Out of 72 subsequent messages she replied to only 15. The majority of the messages were partisan and vulgar and some contained videos of offensive or sexually suggestive content. Doe brought the messages to the attention of her supervisor and a colleague, who both informed court administration.

[*Disciplinary Counsel v. Repp*, 165 Ohio St.3d 582, 2021-Ohio-3923](#)

Sanction: One-year suspension from the practice of law and from judicial office without pay.

Rules Violated: Jud.Cond.R. 1.2, 2.2, 2.8(B), Prof.Cond.R. 8.4(d).

A woman, A.O., entered Respondent's courtroom to observe the hearing of her daughters' father, T.D. He had been arrested the day before for violating his probation and failing to appear in a county drug-court program. The judge noticed A.O. in the courtroom and after a defendant in another case said he did not believe in using drugs, the judge stated "That's good. I wish all of us could say that. Right, A.O.?" Before Respondent called the next case, he stated that he felt A.O. was under the influence and wanted her tested. A bailiff directed her to follow him to the probation department to have a drug test administered. She asked for a lawyer but was denied because she was not under arrest. A.O. declined the drug test and Respondent held her in direct contempt and sentenced her to ten days in jail. At jail she was forced to take a pregnancy test and undergo two full-body scans with male officers present. Respondent also sentenced her daughters' father, T.D., to a significant amount of time in jail for the probation violations and two pending cases. A.O. retained defense counsel to file a motion to stay her sentence pending appeal. At a hearing on that motion the next day, in front of another judge,

the prosecutor moved to vacate Respondent's contempt finding on the grounds that it was not supported by law and violated the Ohio and United States Constitutions. After the hearing, A.O. was released from jail. The appeals court reversed Respondent, finding the record to be "devoid of any specific observations or findings by [Respondent] of [A.O.'s] conduct in the courtroom ****" and that his actions were an invalid exercise of contempt power.

[Disciplinary Counsel v. O'Diam, Slip Opinion No. 2022-Ohio-1370](#)

Sanction: Six-month stayed suspension.

Rules Violated: Jud.Cond.R. 2.8(B).

The executor of an estate retained Respondent's daughter, Brittany [O'Diam](#), to represent her in the estate's administration. After the application to probate the will was filed, Brittany filed several waivers of disqualification signed by the beneficiaries of the estate. The waivers disclosed Respondent's familial relationship with Brittany and his position as a former shareholder and creditor of Brittany's law firm. One beneficiary, Buccalo, attended a public meeting of the county board of commissioners and stated his belief that Respondent should recuse himself from cases in which his family represents parties. He wanted to ensure that the commissioners were aware of Respondent's practice. Upon learning about Buccalo's appearance at the meeting, Respondent scheduled a status conference and required all beneficiaries to attend. At the hearing he played a recording of Buccalo's comments, then proceeded to cross-examine Buccalo for almost an hour on issues related to the waiver and his comments to the commissioners. Respondent informed Buccalo of confrontations he had had over the years with the county commissioners and characterized Buccalo's comments as "slander." Respondent later permitted Brittany to question Buccalo and make statements for more than 15 minutes. Respondent did not curtail Brittany's questioning. In closing, Respondent berated Buccalo by stating that his comments at the board of commissioners meeting were intended to slander and disparage him and his daughter. Respondent then announced his formal recusal from the case. His notice of recusal indicated that Buccalo had raised concerns about the integrity and ethics of the probate court "without any basis in law or fact."

II. Personal Misconduct

[Columbus Bar Assn. v. Jones, 166 Ohio St.3d 18, 2021-Ohio-4070](#)

Sanction: Six-month stayed suspension.

Rules Violated: Prof.Cond.R. 8.4(c), 8.4(h), 8.1(a).

Respondent claimed that Sean McKee, who had begun dating his estranged wife, left him a threatening voicemail. McKee was employed in the men's-clothing business and used the brand names "The Haberdasher Club" and "Alphasuit." Respondent, without notifying McKee, incorporated two businesses with the same brand names. Upon discovering the filings, McKee filed a grievance. In response to the grievance, Respondent falsely stated that he had filed the articles of incorporation to protect McKee's business from "trademark bullying" and

that one filing was to form a debt purchasing company to purchase charged off automobile loans from banks. Respondent later dissolved the two companies and admitted he had incorporated the entities to retaliate against McKee for dating his wife. After Respondent learned of McKee's grievance, he sent his then ex-wife hostile text messages about the grievance and his financial support of her. One of the messages threatened retaliation against McKee. Another text message stated that his law licenses supported her, and their children, and that McKee's false allegations threatened the family's security.

[*Disciplinary Counsel v. Hoover*, 167 Ohio St.3d 69, 2022-Ohio-769](#)

Sanction: Two-year suspension with credit for the time served under interim felony suspension.

Rules Violated: Prof.Cond.R. 8.4(h).

Respondent rented out several units on property he owned. His son managed the rentals. Respondent was diagnosed with bipolar disorder and testified that he had refused to take any medication between 2001-2019. During the summer of 2019 he met Jason Pelfrey while working in one of his garages on the property and was informed that he was renting an apartment from Respondent's son. In October 2019, Respondent noticed that someone had accessed a building on the property without authorization. He retrieved a 12-gauge shotgun and began shouting for anyone present to identify themselves. He recognized everyone he met as a current tenant until he encountered Pelfrey. He demanded that Pelfrey identify himself, accused him of breaking into buildings, not paying rent, and told him to leave the premises. Pelfrey refused to leave and locked himself in his apartment. Respondent later grabbed a baseball bat and shattered a sliding glass door to the apartment. He was arrested and posted bond. He was later indicted on two first-degree felony counts of aggravated burglary with firearm specifications and a first-degree misdemeanor count of aggravated menacing. Several months later he posted a derogatory message on Facebook about the judge who arraigned him and blamed him for the criminal charges that were pending. He failed to appear for a hearing and a warrant was issued for his arrest. After being transferred and involuntarily held at a behavioral healthcare facility, he underwent treatment to restore his competency. He later pleaded guilty to one third-degree felony count of burglary and a first-degree misdemeanor charge of aggravated menacing. He was sentenced to three years of intensive community control and ordered to remain in counseling and take his prescribed medication.

[*Columbus Bar Assn. v. Bahan*, Slip Opinion No. 2022-Ohio-1210](#)

Sanction: Six-month stayed suspension.

Rules Violated: Prof.Cond.R. 8.4(d) and Gov.Bar R. IV(2).

Respondent attended an annual bar association holiday event in December 2018. During the presentation of a "mock award" to a sitting judge, she loudly and rudely interrupted the presentation and called the judge a "piece of shit," "asshole," and a "motherfucker." Respondent had consumed alcohol at the event and appeared to be intoxicated. Over a nine-year period, Respondent had engaged in several incidents of improper conduct while under the

influence of alcohol that were prejudicial to the administration of justice, including reporting to the sheriff's office that her husband had stolen her vehicle, which was untrue, and reporting that her son had stolen her iPad, even though he had permission to use the device. Respondent was cited for disorderly conduct for the iPad incident, but the charge was later dismissed.

III. Uncommon Rule Violations

[Cleveland Metro. Bar Assn. v. Morton, 166 Ohio St.3d 266, 2021-Ohio-4095](#)

Sanction: One-year suspension, six months stayed.

Rules Violated: Prof.Cond.R. 3.5(a)(6), 8.2(a), 8.4(d).

Respondent appealed a Board of Tax Appeals decision on behalf of a client to the Eighth District Court of Appeals. Because Respondent failed to present a current value of the subject property's value, the court of appeals held that the BTA's decision was reasonable and lawful. Respondent next sought a discretionary review of the court of appeals' decision. He argued in his memorandum in support of jurisdiction that the Supreme Court's prior decision in *Moskowitz v. Cuyahoga Cty. Bd. of Revision* was wrongly decided, had applied its own burden of proof, and that the Court should have supported its decision with "solid case law." He also stated that the Court intentionally misstated the holdings of cases cited and criticized the Court for accusing him of "being disingenuous in his view" of the BTA's citation to a case. Additionally, he accused the Supreme Court of seeking to achieve its own political agenda in a prior BTA decision. Respondent also criticized two justices for favoring the government at the expense of the taxpayers and Constitution. He stated that the decision in *Moskowitz* was delayed in order to permit the retirement of certain justices.

[Cleveland Metro. Bar Assn. v. Whipple, Slip Opinion No. 2022-Ohio-510](#)

Sanction: One-year suspension, six months stayed.

Rules Violated: Prof.Cond.R. 1.2(e), 3.1, 8.4(a), 8.4(d).

Respondent was retained by a client to challenge the validity of a second durable power of attorney signed by Respondent's friend and former colleague naming other family members as agents and cotrustees. A lawsuit was eventually filed, and lawyer Roger Synenberg entered an appearance on behalf of the defendants. A settlement was entered into, and the court awaited the filing of a dismissal entry. Synenberg later began to question whether Respondent's client was competent to sign the agreement and the court directed Respondent to obtain a medical professional's opinion of the client's competency. Synenberg later indicated that his clients did not intend to drop the issue. Respondent then filed a motion alleging that Synenberg's performance and fitness as a lawyer were impaired by a mental or emotional condition as demonstrated by certain acts allegedly undertaken by Synenberg. Some of the statements were false and defamatory or clear misrepresentations. The motion recommended that the court refer Synenberg to OLAP. During the hearing, Respondent insisted that if the defendants signed a stipulated dismissal order without further examination of his client's competency, then the

presiding judge would not have to act on his motion. He stated that if the dismissal order was not signed, then he desired to present his motion regarding Synenberg.

[*Disciplinary Counsel v. Hillman, Slip Opinion No. 2022-Ohio-447*](#)

Sanction: Two-year stayed suspension.

Rules Violated: Prof.Cond.R. 1.4(a)(3) and 3.4(d).

Respondent represented a client in a dispute with the client's insurance carrier after his home was damaged by fire. After a complaint was filed, discovery requests and a notice of deposition were sent to Respondent. He then filed a motion for protective order claiming harassment and that his client had already been questioned under oath regarding his claim. The insurer's counsel later contacted Respondent to inform him that the discovery responses were overdue. Respondent replied that he did not recall receiving the requests. After a second deadline had passed, the insurer's counsel filed a motion to compel discovery. At a hearing on the matter, Respondent indicated he would immediately provide the response to the first set of interrogatories but would send a verification page at a later time. The insurer's counsel received no responses to further inquiries about the status of verification page or the outstanding discovery responses. Counsel for the insurer later sent an IRS form to Respondent to obtain access to the insured's tax records but received no response. After additional discovery was propounded without a timely response, a second motion to compel discovery was filed, but Respondent did not respond to the motion. The court granted the motion and indicated its intention to grant sanctions against Respondent, up to and including, dismissal of the complaint with prejudice. The insurer later filed a motion for discovery sanctions, dismissal of the complaint, and an award of reasonable attorney fees which the court granted. Respondent's client was not made aware of many important facts regarding his case, including a deposition date, a second motion to compel, a motion for summary judgment that was untimely filed, and was not provided a verification page for his signature related to a first set of interrogatories.

IV. Court Dismissal – Intent

[*Mahoning Cty. Bar Assn. v. Macejko, 166 Ohio St.3d 503, 2022-Ohio-322*](#)

Sanction: None.

Rules Violated: Charged with Prof.Cond.R. 8.4(c), but no violation found.

Respondent prepared wills, durable powers of attorney, and healthcare powers of attorney for his clients. Respondent personally delivered the final drafts of the estate-planning documents to the clients' home for their review and approval. In doing so, he prenotarized the powers of attorney before leaving his office so that he would not have to remember to take his notary stamp and seal. When he got to his clients' home their adult daughter told him that her mother was not feeling well and asked him to leave the documents for her parents to review. Respondent agreed to do so with the expectation that he would come back to execute the documents. Subsequently a new attorney was hired, and Respondent never returned to the home to execute or retrieve the original documents. A later will contest revealed questions

about the original set of documents Respondent delivered. The Court noted that Respondent exhibited poor judgment in prenotarizing the documents and relinquishing control of them without voiding or removing the completed notary jurats. However, the Court found that Respondent had always intended that the clients' estate planning documents would be executed in his presence and that the conduct did not amount to a willful breach of the rules. Citing Prof.Cond.R., Preamble, and Gov.Bar R. IV(1). Three justices dissented and would have found a violation of Prof.Cond.R. 8.4(c) and imposed a public reprimand.

V. Miscellaneous

[Columbus Bar Assn. v. Family, 167 Ohio St.3d 32, 2021-Ohio-4054](#)

Sanction: Eighteen-month suspension, with the final 12 months stayed on conditions, effective when or if license to practice law is restored to active status.

Rules Violated: Prof.Cond.R. 1.3, 1.4(a)(2), 1.4(a)(3), 1.5(a), 1.15(a), 1.5(d)(3).

The Office of Disciplinary Counsel received notice that Respondent had overdrawn her IOLTA. Respondent claimed that she was going inactive, closing her law practice, and accidentally overpaid a refund to one client. In another count, Respondent was retained to represent a client in a domestic-relations matter. In a written fee agreement, the client agreed to pay a \$1,500 retainer and \$500 per month for the life of the case. All payments were earned upon receipt, but Respondent failed to advise the client in writing that she may be entitled to a refund. In addition to the agreed upon rate, Respondent invoiced the client for additional charges based on \$350 an hour and \$150 an hour for paralegal work. Another invoice noted that all of Respondents' clients were "being transitioned to hourly" even though the client did not consent to a modification of the terms of the fee agreement. In another client matter, Respondent was retained to assist in a domestic-relations matter. Respondent assigned another lawyer to appear at a hearing, but indicated that the lawyer would prepare at "no cost" to the client. However, the client was billed for a meeting with the lawyer. After Respondent received discovery requests in the case, the client objected to providing any personal identifying information, and Respondent promised to remove the information, but produced draft responses with the information and made none of the promised objections. Later, a motion to compel was filed, and opposing counsel moved for sanctions against the client.

[Medina Cty. Bar Assn. v. Buzzelli, Slip Opinion No. 2022-Ohio-2470](#)

Sanction: Two-year suspension.

Rule Violations: 1.1, 1.3, 1.4(a)(2), 1.4(a)(3), 1.4(a)(4), 1.7(a)(2), 1.9(c)(1), 1.16(e), 3.3(a)(1), 5.3(a), 8.4(b), 8.4(c), 8.4(d), 8.4(h).

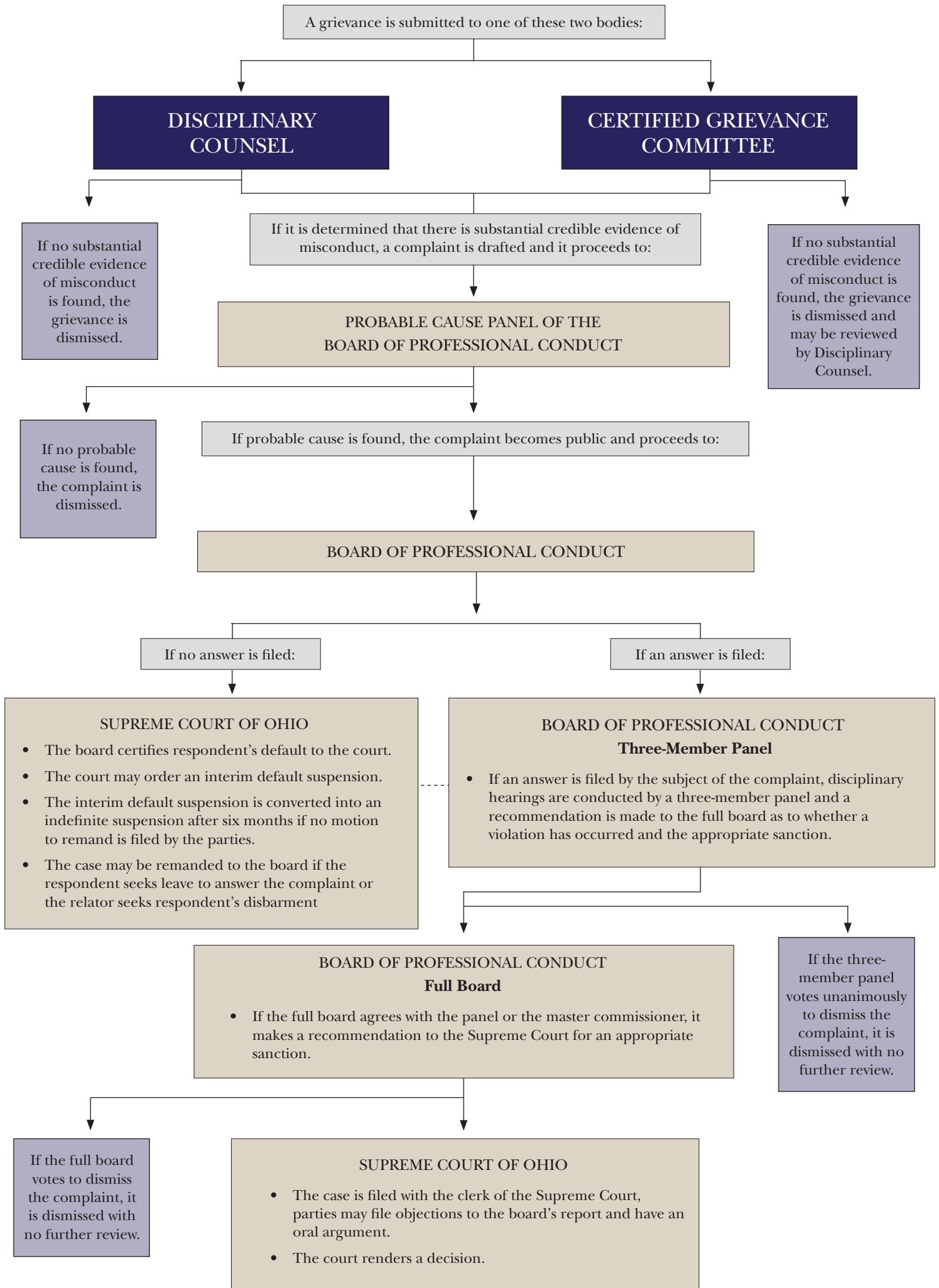
Respondent testified that in July 2017 a woman approached him to represent her in a divorce. He indicated that shortly after he met this woman, but before she retained him, they commenced a sexual relationship. At the time, Respondent was estranged from his wife and for several months moved in with his client. During this time, he represented her in a divorce, defended her against a criminal domestic violence charge, and represented her in a federal

lawsuit. Respondent also allowed her to work in his law office. Respondent ended his personal relationship with his client in September 2018 and asked her to stop coming to his office. This same month, the client recorded a conversation she had with Respondent at his office. Respondent spoke in a threatening tone to the client and stated, among other things, “And I don’t give a shit whether you like it or not, but I’m touching you. [Audible rustling.] Alright, now look at me. I have fucking killed a human being. And you know what, I am not fucking proud of that. But there’s one thing that I have a capacity to do and to be, alright, is a killer. *** You want to rat me out and tell people about it, you go right ahead.” Around the same time, Respondent reconciled with his wife. Respondent did not withdraw from his client’s domestic violence case until December 2018. Further, despite being told to stop working on her federal suit, he continued to file pleadings on that case until January 2019. The pleadings contained false information about the client’s signature and indicated that she was representing herself pro se. In March 2019, Respondent represented his wife in a Civil Stalking Protection Order case against his client. Respondent admitted to using information he learned when representing his client to her disadvantage at the CSPO hearing. In representing another client in a dissolution matter, Respondent delayed working toward a settlement agreement and failed to timely provide the client with an accurate accounting of her retainer after she terminated his representation. In a final matter, Respondent was appointed to represent a client in an appeal of a conviction for operating a vehicle while intoxicated. After timely filing the notice of appeal, he then failed to meet court ordered deadlines and the case was dismissed. A public defender filed to reopen the appeal and a new attorney was appointed. Respondent subsequently filed two motions despite the fact that he was no longer counsel of record in the case.

**DISCIPLINARY
PROCESS OVERVIEW**
(Optional)

DISCIPLINARY PROCESS

A grievance against a judge or attorney may be submitted to the Disciplinary Counsel or a certified grievance committee of a local bar association. If either of those bodies determines that substantial credible evidence of professional misconduct exists, a formal complaint is drafted. It then moves to a probable cause panel of the Board of Professional Conduct, which determines if there is probable cause. If the panel determines that there is probable cause, the formal complaint becomes public and is filed with the Board of Professional Conduct. Hearings are then conducted by the board and if it finds a violation, a recommendation is made to the Supreme Court of Ohio. The Supreme Court of Ohio makes the final decision as to findings of misconduct, and issues an appropriate sanction.





Ohio Board of Professional Conduct

Disciplinary Case Statistics 2019-2021

Supreme Court Decisions

(excluding defaults and reinstatements)

2019	2020	2021
50	55	47

Sanction Imposed

(excluding defaults)

Public reprimand
Term suspension
Indefinite suspension
Disbarment
Dismissal

2019	2020	2021
9	10	10
31	34	29
8	9	5
2	1	3
0	1	0

Court Action on Board-Recommended Sanction

Imposed recommended sanction

Modified recommended sanction

- Increased
- Decreased

2019	2020	2021
45 (90%)	46 (84%)	46 (98%)
5 (10%)	9 (16%)	1 (2%)
3	4	1
2	5	0

Court Action on Consent to Discipline Cases

(cases in which the Board recommended acceptance)

Accept with public reprimand
Accept with term suspension
Rejected and remanded

2019	2020	2021
5	2	7
6	5	6
2	0	0

Default Cases

Total defaults certified to SCO
Interim suspension imposed
Indefinite suspension imposed

2019	2020	2021
11	9	3
11	11	2
2	13	7



Ohio Board of Professional Conduct

Disciplinary Case Statistics 2019-2021

Respondent with Prior Discipline

(includes discipline for misconduct and suspensions for non-compliance with CLE or attorney registration requirements.)

2019	2020	2021
15 (30%)	16 (29%)	13 (28%)

License Reinstatements

Upon application

Upon petition:

- Granted
- Denied
- Withdrawn

2019	2020	2021
17	11	14
1	1	4
0	0	0
0	1	1

Judicial Misconduct Cases

(includes all cases involving violations of the Code of Judicial Conduct when the respondent was a judicial officer or candidate at the time the misconduct occurred.)

Total

Rule V cases

Judicial campaign misconduct (expedited)

Dismissals

2019	2020	2021*
5	6	4
5	6	3
0	0	1
0	1	0

* Six judicial misconduct cases were pending as of 12/31/2021

Miscellaneous Disciplinary Dispositions

Resignations with discipline pending accepted

Resignations with discipline pending denied

Interim remedial suspension imposed

Child support default suspension imposed

Interim felony suspension imposed

Impairment suspension imposed

Reciprocal discipline imposed

2019	2020	2021
11	13	12
1	1	0
0	5	3
0	0	1
15	8	3
0	1	0
3	4	4



Ohio Board of Professional Conduct

Disciplinary Case Statistics 2019-2021

Top 5 Disciplinary Offenses of 2021

(based on total number of grievances opened for investigation and primary misconduct alleged)

1. Neglect/failure to protect client's interest
2. Judicial misconduct
3. Excessive fee
4. IOLTA violations
5. Trial misconduct

2021
28%
14%
10%
9%
8%

Active Registered Attorneys

Awards to Victims of Lawyers by Lawyers' Fund for Client Protection

2019	2020	2021
43,700	44,387	43,626
\$262,351	\$387,416	\$545,891

Total Grievances

Disciplinary Counsel (ODC)

Certified Grievance Committees (CGC)

Total Dismissals*

Dismissed after initial review by ODC

Dismissed after initial review by CGC

Total Investigations*

Opened for Investigation by ODC

Opened for Investigation by CGC

Complaints filed with the Board

2019	2020	2021
3,786	2,994	3,454
2,549 (67%)	2,067 (69%)	2,654 (77%)
1,237 (33%)	927 (31%)	801 (23%)
1,106	661	801
575 (15%)	228 (8%)	447 (13%)
531 (14%)	433 (14%)	354 (10%)
2,680	2,333	2,653
1,974 (52%)	1,839 (61%)	2,084 (60%)
706 (19%)	494 (16%)	570 (16%)
63	72	39

*Percentages based on total grievances

DISCIPLINARY PROCESS OVERVIEW

Richard A. Dove
Director
Board of Professional Conduct

Joseph M. Caligiuri
Disciplinary Counsel



1

GOV. BAR R. V

Three-tiered process:

- **Investigation**—grievance investigated by by Office of Disciplinary Counsel (ODC) or certified grievance committees (CGCs)
- **Adjudication**—formal complaint heard before Board of Professional Conduct (BPC)
- **Review and imposition of discipline**—Supreme Court



2

2021 STATISTICS

- 3,454 grievances filed; 77% with ODC, 23% with CGCs
- 23% of grievances dismissed on intake (DOI); 77% opened for investigation
- 39 formal complaints filed with the Board (pre-Covid average—65-70/year)



3

GRIEVANCE PROCESS

- Letter of Inquiry (LOI)
- Investigation—response to LOI, subpoenas, witness interviews, depositions
- Letter of Dismissal or Notice of Intent



4

LETTER OF INQUIRY

- Includes copy of grievance
- Written response within 2 weeks (may extend)
- Failure to respond—not a good idea
- Duty to cooperate



5

INVESTIGATION

- Response from attorney/judge
- Response may be provided to grievant
- Investigators @ ODC
- Subpoena power
- Witness interviews



6

FORMAL COMPLAINT

- Notice of intent
- Response from attorney/judge
- File with Board:
 - Complaint
 - Response, if any
 - Summary of investigation
 - Exhibits
- Waiver of probable cause



7

PROBABLE CAUSE

- Two, three-member panels, with alternates
- One panel meets each month
- Review materials submitted by relator
- Standard—substantial, credible evidence
- Options—certify, dismiss, certify in part/dismiss in part
- Appeal from dismissal



8

CERTIFICATION OF COMPLAINT

- If probable cause is found:
 - Complaint is certified to Board and served on Respondent
 - Respondent has 20 days to answer
 - Default proceedings, if no answer
- Complaint is public once certified—on-line docket



9

BOARD PROCEEDINGS

- Answer filed—case assigned to 3-commissioner panel
- Prehearing telephone conference with parties
- Time guidelines for Board proceedings:
 - 40 days—initial prehearing conference
 - 150 days—hearing scheduled
 - 40 days—after submission of case to panel, report prepared for submission to full Board



10

BOARD PROCEEDINGS

- Amended complaint—motion for leave to amend (absent Respondent’s consent); no separate probable cause determination
- Stipulations—strongly encouraged, especially as to facts
- Joint exhibits—strongly encouraged
- Consent to discipline



11

DEFAULT PROCEEDINGS

- No answer to formal complaint:
 - Certify respondent’s default to Supreme Court
 - Court issues show cause order
 - No reply, interim default suspension imposed
 - Relator or respondent can seek remand to Board
 - If no remand, second show cause order issued three months after interim default suspension is imposed
 - No reply, indefinite suspension
 - Relator or respondent can seek remand



12

HEARING PROCEDURES

- Formal hearing
- Rules of Evidence and Civil Rules apply
- Relator—BOP by clear and convincing evidence
- CGCs—bar counsel responsible for serving as lead counsel and litigating case to the panel
- Primary issues: (1) facts; (2) rule violations; (3) aggravating & mitigating factors; and (4) sanction



13

PANEL AND BOARD

- Panel questions Respondent
- Panel findings/dismissals
- Panel prepares written report to full Board
- Full Board deliberates and votes
- Approve/modify findings of fact, conclusions of law, aggravating/mitigating factors, and recommended sanction



14

SUPREME COURT OF OHIO

- Board report and record filed with Supreme Court
- Court issues show cause order (except consent to discipline); parties have 20 days to object
- No objections—Court considers on report and record
- Objections—oral argument (except reinstatement)
- Supreme Court is NOT bound by Board recommendation, even where no objections



15

WHAT INFLUENCES SANCTION?

- Aggravating factors:
 - Prior discipline (what is or is not?)
 - Dishonest or selfish motive
 - Pattern of misconduct
 - Noncooperation
 - Failure to make restitution
 - Failure to acknowledge wrongdoing



16

WHAT INFLUENCES SANCTION?

- Mitigating factors:
 - No prior discipline
 - Absence of a dishonest or selfish motive
 - Full and free disclosure
 - Acknowledge wrongdoing
 - Character and reputation
 - Restitution



17

WHAT INFLUENCES SANCTION?

- Disorder—defined in Section 35
- Four requirements for a disorder to be considered in mitigation:
 - Diagnosis*—qualified health care professional
 - Prognosis*—opinion that attorney can engage in competent and ethical professional practice of law
 - Treatment/counseling*—sustained period of successful treatment (mental disorder) or completion of approved treatment program (substance use disorder)
 - Causation*—disorder caused or contributed to misconduct



18

DISPOSITION TIMES

- ODC/CGCs—up to one year to investigate
- Board—6-8 months from filing to disposition
- Supreme Court—8-10 months; faster if consent-to-discipline or no objections to Board report



19

QUESTIONS



20

**PRESENTERS'
BIOS**

PRESENTERS' BIOGRAPHICAL INFORMATION

D.ALLAN ASBURY joined the Ohio Board of Professional Conduct in 2014 as Senior Counsel. Before joining the Board, Allan served as Administrative Counsel for the Supreme Court and Secretary of the Board on the Unauthorized Practice of Law. His primary duties for the Board include researching and drafting advisory opinions, providing ethics advice to Ohio lawyers, judges, and judicial candidates, and assisting in the Board's ethics outreach and education efforts. Allan received his undergraduate and law degrees from Capital University. He began his practice of law as in-house counsel for a regional transit authority where he had primary responsibility for personal injury defense, labor, and employment matters. He is admitted to practice in Ohio, United States District Court for the Southern District of Ohio, and the U.S. Supreme Court. Allan is a Certified Court Manager (CCM) through a certification program of the National Center for State Courts.

LORI J. BROWN was an Assistant Disciplinary Counsel for the Supreme Court of Ohio for more than 18 years after beginning her tenure with the Office of Disciplinary Counsel in June 1994. In January 1999, she was promoted to First Assistant Disciplinary Counsel and in July 2009 to the position of Chief Assistant, a position she held until December 31, 2012. Shortly after retiring from the Court, Brown formed the law firm of Lori J. Brown LLC where she represented lawyers and law firms in the areas of ethics and related litigation. In September 2015, she was hired as Bar Counsel for the Columbus Bar Association and served in that position until July 2018. In November 2019, Brown returned to ODC in a part-time capacity as Special Assistant Disciplinary Counsel and remains in that position today. Before joining ODC in 1994, Brown served as a judicial law clerk to Hon. George M. Glasser at the Sixth District Court of Appeals, was in-house counsel for Safelite Glass Corp., and a clerk to Justice Alice Robie Resnick at the Supreme Court of Ohio. Admitted in the United States Supreme Court and the Federal District Court for the Southern District of Ohio, Brown received a Bachelor of Science degree from Miami University, a Master of Education from Bowling Green State University, and a Juris Doctorate from the University of Toledo College of Law. Brown currently serves as Women's Chairperson for the Greater Columbus Tennis Association and is Chairperson of the Miami University Hall of Fame/Cradle of Coaches Selection Committee.

JOSEPH M. CALIGIURI Joe is the Disciplinary Counsel in the Office of Disciplinary Counsel, where he has worked since 2002. He is responsible for investigating and prosecuting lawyers and judges accused of ethical misconduct. Joe is a frequent lecturer for the Ohio Judicial College, Ohio State Bar Association, and the Association of Judicial Disciplinary Counsel. Joe is also an adjunct professor of law at The Ohio State University, where he teaches Professional Responsibility. Joe was a former prosecutor in Buffalo, NY, and is a graduate of New England Law and the Clemson University MBA Program.

HON. D. CHRIS COOK has served on the Lorain County Court of Common Pleas since 2016. Prior to becoming a judge, Judge Cook's primary practice involved litigation, specifically in the area of attorney discipline, consumer sales practices, and the defense of automobile dealerships. He has tried numerous civil and criminal cases to juries

throughout the State of Ohio in both state and federal courts. Judge Cook is currently Vice-Chairman of the Ohio Board of Professional Conduct, Chairman of the Lorain County Bar Association's New Lawyer's Admissions Committee, Chairman of Lorain County Stepping Up Committee, a member of the Ohio Supreme Court's Judicial Curriculum Committee, and a member of the Ohio Supreme Court's Committee on Grievances Against Supreme Court Justices. He is a former member of the Board of Governors of the Ohio State Bar Association, past President of the Lorain County Bar Association, a former member of the Lorain County grievance committee, and former bar counsel to the Lorain County Bar Association.

RICHARD A. DOVE is the Director of the Board of Professional Conduct and serves as the Board's chief legal and administrative officer. Prior to his appointment in 2011, Rick served for more than 22 years on the staff of the Supreme Court of Ohio, the last four of which as Assistant Administrative Director. He is past president of the National Council of Lawyer Disciplinary Boards and in 2019 was recognized as Distinguished Alumnus of the Year by Capital University Law School. Rick is a graduate of Wittenberg University and Capital University Law School and is admitted to practice in Ohio, before the United States District Court for the Southern District of Ohio, and before the Supreme Court of the United States.

MICHELLE A. HALL joined the Office of Disciplinary Counsel in 2020 and was recently named Chief Assistant Disciplinary Counsel. Ms. Hall investigates and prosecutes lawyers and judges in professional misconduct cases and coordinates ethics outreach initiatives. Before her work at the Office of Disciplinary Counsel, Ms. Hall was Senior Counsel to the Board of Professional Conduct, where she researched and drafted advisory opinions, provided ethics consultation to lawyers, judges, and judicial candidates, and participated in educational programs such as new judge orientation and the judicial candidate seminar. Ms. Hall has served the Supreme Court of Ohio as Staff Counsel, Attorney Services Counsel, and Secretary of the Board on the Unauthorized Practice of Law and Commission on Professionalism. She also has experience representing the Ohio Board of Nursing and other healthcare regulatory boards as an assistant attorney general and as a law clerk in the Twelfth District Court of Appeals. She is a graduate of the Ohio State University and Wake Forest University School of Law. Ms. Hall is admitted to practice in Ohio and the United States District Court for the Southern District of Ohio.

KELLY HEILE is Bar Counsel with the Ohio State Bar Association. Since January 2015, Kelly has been a member of the Ohio State Bar Association's Certified Grievance Committee and served as relator's counsel before the Board of Professional Conduct and the Ohio Supreme Court. Prior to becoming Bar Counsel, Kelly spent fifteen years as an assistant prosecuting attorney, mostly in Butler County, Ohio, where she prosecuted adult sexual assaults, child sexual abuse, child physical abuse, and homicide cases. In that role, she received significant honors including the Ohio Prosecuting Attorneys Association Meritorious Attorney Award, Women Helping Women's Change Agent Award, and was selected to be a part of the Governor's Working Group on Reviewing the Medical Board's Handling of the Investigation Involving Dr. Richard Strauss.

DONALD R. HOLTZ is an Investigator with the Office of Disciplinary Counsel, a position he has held since 2009. He previously was employed as the Director of Security for The Longaberger Company. Holtz retired after 25 years of service as a Staff Lieutenant assigned to The Ohio State Patrol's Office of Investigative Services. He previously served for three years as a Police Officer with the Metropolitan Police Department, Washington, D.C. Holtz attended Jefferson Technical College and is a graduate of the FBI National Academy and the Maryland Institute of Criminal Justice. He is a certified Polygraph Examiner and completed various specialized law enforcement training throughout his career. He also served as an instructor at the Ohio State Patrol's Academy providing instruction to Ohio State Highway Patrol Cadets, Troopers, and police officers. Holtz provided instruction in Investigative Techniques, and Interviews and Interrogations. During his career Holtz held various positions, managed, and conducted major criminal investigations for the Ohio State Patrol.

GEORGE D. JONSON is a partner in the Cincinnati law firm of Montgomery Jonson LLP. His practice centers on the representation of Ohio lawyers and judges in disciplinary inquiries/proceedings, giving ethics advice to Ohio lawyers and judges, and defending legal malpractice claims. He is also engaged in general civil litigation. Jonson's hobbies include origami and competitive duck herding. He has aspirations of being the oldest person to thru-hike the Appalachian Trail and plans to start his journey in the Spring of 2041.

JAMES MANKEN is the current chair of the Ohio State Bar Association Grievance Committee. He serves as the Chief Legal Counsel in the Office of the Ohio Inspector General. Formerly, Mr. Manken served as Assistant Chief Legal Counsel for the Ohio Auditor of State, Assistant Attorney General for the Ohio Attorney General's Office, Assistant Prosecuting Attorney for Franklin County, and Special Assistant United States Attorney. Additionally, Mr. Manken served as a special prosecutor in numerous white-collar cases and public corruption cases throughout the state of Ohio. Mr. Manken received his Juris Doctorate from Capital University Law School and his undergraduate degree in economics from The Ohio State University.

ALVIN E. MATHEWS, JR. is a partner in the litigation group at Ulmer & Berne, LLP, with Ohio offices in Columbus, Cleveland, and Cincinnati. From 1991 to 1997, he served as an Assistant Disciplinary Counsel. He has since devoted a significant part of his practice to helping lawyers. Alvin has been asked to provide representation on hundreds of legal ethics advisory opinions and lawyer discipline case investigations, including nearly 100 lawyer discipline trials and more than 20 oral arguments before the Supreme Court of Ohio. He is a litigator with experience in complex business and professional liability matters. He is also relied upon by other litigators to serve as an expert witness on lawyer conduct questions. Alvin has presented more than 200 continuing legal education seminars and published many articles on lawyers' ethical responsibilities. He has earned a Preeminent AV rating from Martindale-Hubbell, has been recognized by Ohio Super Lawyers every year since 2011 (Top 50 List, Columbus, 2015-2017) and named to *The Best Lawyers in America*® for Administrative & Regulatory Law (2022 Administrative & Regulatory Law Lawyer of the Year in Columbus). He was designated He received his

bachelor's degree from Miami University, and his law degree from Ohio Northern University College of Law.

KRISTI R. McANAU joined the Ohio Board of Professional Conduct in 2018 as counsel. Her primary duties for the Board include researching and drafting advisory opinions, providing ethics advice to Ohio lawyers, and assisting in the Board's ethics outreach and education efforts. Prior to joining the Board, Ms. McAnaul served as a Staff Attorney at the Ohio Department of Education in the Office of Professional Conduct. She also worked in private practice for over nine years with a primary focus on juvenile and domestic law. Ms. McAnaul graduated magna cum laude from Capital University Law School and was a member and Research Editor of the Capital University Law Review. She received her undergraduate degree from Oakland University in Rochester, Michigan.

PATRICK M. McLAUGHLIN is a former United States Attorney for the Northern District of Ohio having been appointed by President Ronald Reagan. Upon the conclusion of ten years of Department of Justice service he entered private practice concentrating in product and commercial litigation, and white-collar criminal defense. Patrick is a Fellow of the American College of Trial Lawyers. He is a past President of the Judge John M. Manos Inn of Court, and a former Circuit 6 Trustee of the American Inns of Court Foundation. Commencing January 1, 2017, the Supreme Court of Ohio appointed Patrick to the Board of Professional Conduct so that he may continue his service to the public and to the profession.

DON SCHEETZ is a Senior Assistant Disciplinary Counsel with the Office of Disciplinary Counsel for the Supreme Court of Ohio, where he has served since 2013. He primarily investigates and prosecutes judges and lawyers accused of ethical misconduct. Don teaches Professional Responsibility at The Ohio State University Moritz College of Law, his alma mater. He also serves on the Board of Directors for the National Organization of Bar Counsel, which works to enhance professionalism and effectiveness of disciplinary counsel throughout the United States and abroad. Before joining the Office of Disciplinary Counsel, Don served as an assistant prosecuting attorney for the Franklin County Prosecutor's Office, focusing on juvenile gang prosecutions.

PEGGY J. SCHMITZ is currently *of counsel* with the Critchfield Law Firm in Wooster, OH, where she focused her practice on labor, employment and higher education law for the last 36 years. She is currently in her third term with the Board of Professional Conduct and serves on the probable cause committee in addition to hearing and writing reports on dozens of disciplinary cases. Peggy is a graduate of Bowling Green State University and received her J.D. from the University of Akron School of Law.

BRENT SMALL is a Legal Research Analyst with the Office of Disciplinary Counsel and has been with the office since 2017. He is responsible for performing the initial review of grievances, IOLTA investigations, processing applications for retirement or resignation, and conducting legal research. Additionally, he helped create—and performed in—ODC's Trust Accounting 101 CLE course. Before joining ODC, Brent served as a loan closing coordinator for Huntington National Bank and was an assistant manager at Manley Deas Kochalski. He graduated from Capital University's Radio/TV/Film program and earned

his Paralegal Studies Certificate from Columbus State Community College.

HEATHER M. ZIRKE is the Principal of the Zirke Law Firm concentrating in legal ethics, lawyer grievances and disciplinary defense. Prior to opening the Zirke Law Firm, Heather served 16 years as General Counsel and Bar Counsel for the Cleveland Metropolitan Bar Association where she investigated lawyer misconduct, allegations of the unauthorized practice of law and admissions matters for Ohio bar exam candidates. She has appeared before the Board of Professional Conduct, the Board on Character and Fitness, the Board on the Unauthorized Practice of Law, the Eighth District Court of Appeals and the Supreme Court of Ohio. Heather is a graduate of Baldwin-Wallace University and Cleveland-Marshall College of Law.