

DISCIPLINARY HANDBOOK: VOLUME VII

[CASES FROM 2013; CURRENT THROUGH DECEMBER 31, 2013]

BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE

Links within this document lead either to publications on the Supreme Court's website or to other pages within this document. Links in the Table of Cases will direct the user to the corresponding Case Summary; links within the Case Summaries will direct the user to the Index. Links within the Index will direct the user back to the Case Summaries. This document is also fully searchable (hit Ctrl+F, type in the exact term or phrase, and then hit Enter).

The case summaries were prepared by Board staff and may not reflect all aspects of a case in their entirety. The summaries are meant to assist the reader by providing a brief overview of the misconduct committed by the attorney, the rules violated, and the sanction imposed. The summaries should be a beginning point that ends with reading the actual court opinion.



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TABLE OF CONTENTS

[Link is to the beginning of the section]

I. TABLE OF CASES

II. CASE SUMMARIES

[A](#) [B](#) [C](#) [D](#) [E](#) [F](#) [G](#) [H](#) [I](#) [J](#) [K](#) [L](#) [M](#)
[N](#) [O](#) [P](#) [Q](#) [R](#) [S](#) [T](#) [U](#) [V](#) [W](#) [X](#) [Y](#) [Z](#)

III. INDEX

[AGGRAVATING & MITIGATING FACTORS](#)

[CODE OF JUDICIAL CONDUCT VIOLATIONS](#)

[CRIMINAL CONDUCT \(Felony, Misdemeanor, Treatment in Lieu of Conviction\)](#)

[DISCIPLINARY PROCEDURAL ISSUES \(Aggravation/ Mitigation, Cause remanded, Consent-to-discipline, Default, Sanction Increase/ Decrease, Other\)](#)

[DISCIPLINARY RULE VIOLATIONS](#)

[GOV. BAR RULE V\(4\) VIOLATIONS](#)

[PRIOR DISCIPLINARY RECORD \(Attorney Registration, Board Discipline, Other\)](#)

[PUBLIC EMPLOYEE MISCONDUCT \(Judge/ Magistrate/ Clerk, Public Official\)](#)

[RULES OF PROFESSIONAL CONDUCT VIOLATIONS](#)

[SANCTION \(Disbarment, Dismissal, Indefinite Suspension, Public Reprimand, Remand, Term Suspension\)](#)

TABLE OF CASES

FOR CASE SUMMARY- Click the Case Name; **FOR FULL DECISION-** Click the citation in the Case Summary

[*Adusei, Columbus Bar Assn. v.*](#)

136 Ohio St.3d 155, 2013-Ohio-3125. Decided 7/23/2013.

[*Anthony, Disciplinary Counsel v.*](#)

138 Ohio St.3d 129, 2013-Ohio-5502. Decided 12/24/2013.

[*Axner, Cleveland Metro. Bar Assn. v.*](#)

135 Ohio St.3d 241, 2013-Ohio-400. Decided 2/14/2013.

[*Bogdanski, Disciplinary Counsel v.*](#)

135 Ohio St.3d 235, 2013-Ohio-398. Decided 2/13/2013.

[*Bricker, Disciplinary Counsel v.*](#)

137 Ohio St.3d 35, 2013-Ohio-3998. Decided 9/18/2013.

[*Brown-Daniels, Cleveland Metro. Bar Assn. v.*](#)

135 Ohio St.3d 278, 2013-Ohio-955. Decided 3/19/2013.

[*Bunstine, Disciplinary Counsel v.*](#)

136 Ohio St.3d 276, 2013-Ohio-3681. Decided 8/28/2013.

[*Carr, Akron Bar Assn. v.*](#)

135 Ohio St.3d 390, 2013-Ohio-1485. Decided 4/17/ 2013.

[*DeGidio, Disciplinary Counsel v.*](#)

135 Ohio St.3d 407, 2013-Ohio-1509. Decided 4/18/2013.

[*Detweiler, Disciplinary Counsel v.*](#)

135 Ohio St.3d 447, 2013-Ohio-1747. Decided 5/2/2013.

[*Evans, Ohio State Bar Assn. v.*](#)

137 Ohio St.3d 441, 2013-Ohio-4992. Decided 11/19/2013.

[*Eynon, Disciplinary Counsel v.*](#)

135 Ohio St.3d 274, 2013-Ohio-953. Decided 3/19/2013.

[*Farah, Toledo Bar Assn. v.*](#)

136 Ohio St.3d 295, 2013-Ohio-3680. Decided 8/28/2013.

[*Fletcher, Disciplinary Counsel v.*](#)

135 Ohio St.3d 404, 2013-Ohio-1510. Decided 4/18/2013.

[*Freeman, Cleveland Metro. Bar Assn. v.*](#)

135 Ohio St.3d 263, 2013-Ohio-736. Decided 3/6/2013.

Gill, *Columbus Bar Assn. v.*
137 Ohio St.3d 277, 2013-Ohio-4619. Decided 10/24/2013.

Greenberg, *Dayton Bar Assn. v.*
135 Ohio St.3d 430, 2013-Ohio-1723. Decided 5/1/2013.

Gruttadaurio, *Cleveland Metro. Bar Assn.*
136 Ohio St.3d 283, 2013-Ohio-3662. Decided 8/28/2013.

Hetzer, *Toledo Bar Assn. v.*
137 Ohio St.3d 572, 2013-Ohio-5480. December 12/19/2013.

Hunt, *Dayton Bar Assn. v.*
135 Ohio St.3d 386, 2013-Ohio-1486. Decided 4/17/2013.

Lawrence, *Cincinnati Bar Assn.*
137 Ohio St.3d 299, 2013-Ohio-4735. Decided 10/31/2013.

Lehmkuhl, *Disciplinary Counsel v.*
137 Ohio St.3d 71, 2013-Ohio-4539. Decided 10/16/2013.

Leskan, *Disciplinary Counsel v.*
136 Ohio St.3d 85, 2013-Ohio-2415. Decided 6/13/2013.

Martorana, *Geauga Cty. Bar Assn. v.*
137 Ohio St.3d 19, 2013-Ohio-1686. Decided 4/30/2013.

McGowan, *Columbus Bar Assn. v.*
135 Ohio St.3d 368, 2013-Ohio-1470. Decided 4/16/2013.

Oberholtzer, *Disciplinary Counsel v.*
136 Ohio St.3d 314, 2013-Ohio-3706. Decided 9/4/2013.

O'Malley, *Disciplinary Counsel v.*
137 Ohio St.3d 161, 2013-Ohio-4566. Decided 10/17/2013.

Pryatel, *Cleveland Metro. Bar Assn. v.*
135 Ohio St.3d 410, 2013-Ohio-1537. Decided 4/24/2013.

Siehl, *Dayton Bar Assn. v.*
135 Ohio St.3d 261, 2013-Ohio-735. Decided 3/6/2013.

Snyder, *Geauga Cty. Bar Assn. v.*
136 Ohio St.3d 320, 2013-Ohio-3688. Decided 9/4/2013.

Stewart, *Toledo Bar Assn. v.*
135 Ohio St.3d 316, 2013-Ohio-795. Decided 3/12/2013.

Talikka, Disciplinary Counsel v.
135 Ohio St.3d 323, 2013-Ohio-1012. Decided 3/20/2013.

Taubman, Disciplinary Counsel v.
136 Ohio St.3d 312, 2013-Ohio-3704. Decided 9/3/2013.

Terbeek, Disciplinary Counsel v.
135 Ohio St.3d 458, 2013-Ohio-1912. Decided 5/16/2013.

Tomer, Akron Bar Assn. v.
138 Ohio St.3d 302, 2013-Ohio-5494. Decided 12/19/2013.

Tomson, Disciplinary Counsel v.
136 Ohio St.3d 71, 2013-Ohio-2154. Decided 6/4/2013.

Underwood, Disciplinary Counsel v.
136 Ohio St.3d 220, 2013-Ohio-3118. Decided 7/18/2013.

Wagner, Mahoning Cty. Bar Assn. v.
137 Ohio St.3d 545, 2013-Ohio-5087. Decided 11/21/2013.

White, Akron Bar Assn. v.
136 Ohio St.3d 51, 2013-Ohio-2153. Decided 5/30/2013.

Wieczorek, Cincinnati Bar Assn. v.
135 Ohio St.3d 434, 2013-Ohio-1743. Decided 5/1/2013.

Williams, Stark Cty. Bar Assn. v.
137 Ohio St.3d 112, 2013-Ohio-4006. Decided 9/24/2013.

Wrentmore, Cleveland Metro. Bar Assn. v.
138 Ohio St.3d 16, 2013-Ohio-5041. Decided 11/21/2013.

Zena, Mahoning Cty. Bar Assn. v.
137 Ohio St.3d 456, 2013-Ohio-4585. Decided 10/23/2013.

Zimmer, Stark Cty. Bar Assn. v.
135 Ohio St.3d 462, 2013-Ohio-1962. Decided 5/16/2013.

CASE SUMMARIES

Adusei, Columbus Bar Assn. v.

[136 Ohio St.3d 155, 2013-Ohio-3125](#). Decided 7/23/2013.

OVERVIEW: Respondent charged a clearly excessive fee for simply collecting and distributing insurance proceeds and failed to reduce a contingent-fee agreement to writing.

FINDINGS: A former client of Respondent was killed in a car accident, and the former client's family members contacted Respondent to discuss matters involving the accident and estate. Respondent met with the family members to discuss the possibility of returning the body to Ghana, cultural issues regarding the distribution of assets, and legal issues related to the estate. At the end of the meeting, the family members expressed a desire to retain Respondent. Respondent did not execute a written agreement with the extended family, but he did raise the issue of compensation. The family members did not have funds to compensate Respondent, but they verbally agreed that Respondent would receive one-third of any amounts recovered on behalf of the estate. The remaining two-thirds would be divided among the legal heirs. Respondent did not discuss this arrangement with the former client's children or widow. Subsequently, Respondent learned that the former client had a life insurance policy, which named his wife as the sole beneficiary. Respondent traveled to Ghana and met with the widow. At the meeting, the widow executed a power of attorney in favor of Respondent. Respondent and the widow discussed fees, but did not enter into any written agreement. The widow did not agree to pay Respondent's expenses for traveling to Ghana, but at the end of the meeting Respondent believed that she had agreed to pay a contingent fee. Respondent received the proceeds of the insurance policy, which totaled \$23,816. Respondent retained \$7,956.77 as his fee, and distributed \$1,300 to the extended family and \$14,748.33 to the widow.

SANCTION: The parties submitted stipulations of fact and misconduct. The Board adopted the panel's findings of fact, conclusions of law, and recommended sanction of a public reprimand. The panel and Board rejected the stipulation that no aggravating factors were present in this case. Instead, the panel and Board found clear and convincing evidence that Respondent's actions harmed a vulnerable client. The Court adopted the stipulated findings of fact and misconduct and imposed the recommended sanction.

CASE AUTHORITY FOR SANCTION: *Martorana* (2013); *Smith* (2009); *Randolph* (1999); *Carr* (2012); *Hackett* (2011)

Rules Violated: Prof.Cond.R. [1.5\(a\)](#), [1.5\(c\)\(1\)](#)

Aggravation/ Mitigation: **A-**(**h**) (harm to vulnerable victim); **M-** (**a**) (no prior discipline), (**c**) (restitution or rectified consequences), (**d**) (cooperative attitude)

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: NO	Public Official: NO	Prior Discipline: NO	
Sanction: Public Reprimand			

[Table of Cases](#)

[Index](#)

Anthony, Disciplinary Counsel v.
[138 Ohio St.3d 129, 2013-Ohio-5502](#). Decided 12/24/2013.

OVERVIEW: Respondent engaged in illegal conduct involving moral turpitude. His conduct also involved dishonesty, fraud, deceit, or misrepresentation and adversely reflected on his fitness to practice law. In 2005, Respondent was suspended for failing to register, and in 2009, for failing to comply with continuing legal education requirements. In 2011, the Court imposed an interim felony suspension based on Respondent's theft conviction for embezzling money from his employer. All of these suspensions were in effect at the time of this case.

FINDINGS: In 2004, Respondent voluntarily ceased the active practice of law and focused on his employment as the business manager for a catholic church. Over a period of almost four years, Respondent embezzled church funds to pay for personal expenses and gambling. Respondent wrote at least 60 checks to himself or to cash from church accounts, withdrew cash from the accounts, and improperly used the church credit card more than 60 times. The parties stipulated that Respondent misappropriated approximately \$118,000 in church funds, but the church's insurance administrator estimated the loss to be \$127,649. Respondent pled guilty to grand theft, was sentenced to a 12-month prison term, and ordered to pay full restitution. After Respondent had served four months in prison, the court modified his sentence to five years of community control. When the church was compensated for its loss by insurance funds, the court modified Respondent's restitution order and terminated the community control supervision.

SANCTION: The parties submitted stipulations of fact and misconduct. The Board adopted the panel's findings of fact, conclusions of law, and recommended sanction of an indefinite suspension. The Court adopted the stipulations and imposed an indefinite suspension, with reinstatement conditioned on a successful completion of an OLAP-approved treatment plan for gambling addiction and the payment of restitution in the amount of \$127,649. As of 2011, Respondent had paid \$13,425 in restitution.

CASE AUTHORITY FOR SANCTION: *Muntean* (2010); *Kelly* (2009); *Smithern* (2010)

DISSENT: Justice Lanzinger dissented, and would have disbarred Respondent based upon the disbarment imposed in *Williams* (2013). Chief Justice O'Connor and Justice French joined in the dissenting opinion.

Rules Violated: DR 1-102(A)(3), 1-102(A)(4), 1-102(A)(6)

Aggravation/ Mitigation: **A-**(a) (prior discipline), (b) (dishonest or selfish motive), (c) (pattern of misconduct), (d) (multiple offenses), (h) (harm to vulnerable victim), (i) (no restitution); **M-** (d) (cooperative attitude), (f) (other penalties/sanctions)

Court Modified Sanction: NO		Criminal Conduct: YES	
Procedure/ Process Issues: NO	Public Official: NO	Prior Discipline: YES	
Sanction: Indefinite suspension			

Axner, Cleveland Metro. Bar Assn. v.
[135 Ohio St.3d 241, 2013-Ohio-400](#). Decided 2/14/2013.

OVERVIEW: Respondent neglected two client matters, failed to communicate with the clients, employed a suspended lawyer for approximately 13 years, and initially failed to cooperate in the resulting disciplinary investigation.

FINDINGS: Respondent was retained to file a bankruptcy petition and the client paid installments totaling \$1,000 for Respondent's fee and an additional \$399 for costs. Respondent ignored the client's telephone calls and messages for more than two-and-a-half years. After the client filed a grievance, Respondent called the client and filed her bankruptcy petition. A second client paid Respondent \$1,399 to file a bankruptcy petition. The bankruptcy court ordered Respondent to disgorge \$200 of his fee to the client after he failed to attend a meeting of creditors. Respondent converted the bankruptcy from a Chapter 7 to a Chapter 13, but the first meeting of creditors had to be rescheduled because Respondent arrived late and inebriated. Throughout the delays, Respondent was not responsive to the client's communications. The client missed work to attend the creditor meetings that Respondent missed and had to repeat a credit-counseling course due to Respondent's delays. Respondent also employed a suspended attorney for about 13 years, who met with clients and collected fees. Respondent generally split his fees evenly with the suspended attorney and never registered the employment relationship with the Office of Disciplinary Counsel.

SANCTION: The parties submitted stipulations of fact and misconduct. The Board adopted the panel's findings of fact, conclusions of law, and recommended sanction of an indefinite suspension. The Board found that Respondent's alcoholism did not qualify as a mitigating factor. The Court imposed the indefinite suspension, conditioning reinstatement on full compliance with an OLAP contract.

CASE AUTHORITY FOR SANCTION: *Willis* (2002); *Fehler-Schultz* (1992); *George* (1976)

Rules Violated: Prof.Cond.R. [1.3](#), [1.4 \(a\)\(2\)](#), [1.4\(a\)\(3\)](#), [1.4\(a\)\(4\)](#), [1.4\(b\)](#), [3.4\(c\)](#), [5.4 \(a\)](#), [5.5\(a\)](#), [8.1\(b\)](#), [8.4\(c\)](#), [8.4\(d\)](#), [8.4\(h\)](#); Gov.Bar R. [V\(4\)\(G\)](#), [\(8\)\(G\)\(3\)](#)

Aggravation/ Mitigation: A- [\(b\)](#) (dishonest or selfish motive), [\(c\)](#) (pattern of misconduct), [\(d\)](#) (multiple offenses), [\(h\)](#) (harm to vulnerable victim); M- [\(a\)](#) (no prior discipline)

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: NO	Public Official: NO	Prior Discipline: NO	
Sanction: Indefinite suspension			

[Table of Cases](#)

[Index](#)

Bogdanski, Disciplinary Counsel v.
[135 Ohio St.3d 235, 2013-Ohio-398](#). Decided 2/13/2013.

OVERVIEW: Respondent was charged with multiple violations of the Rules of Professional Conduct for twice forging a client’s signature and notarizing the signatures, and for incompetence and neglect. Respondent answered the complaint, admitted to most of the factual allegations lodged against her, and denied that her conduct amounted to professional misconduct. Respondent did not appear at the panel hearing.

FINDINGS: While representing a client, Respondent forged and notarized his signature, and then filed the forged affidavit in the court. Respondent forged the same client’s signature on the verification page of a response to a request for production of documents, notarized the signature, and served the forged document on opposing counsel. Respondent worked as an independent contractor for a law firm. A client retained the law firm to file a divorce complaint and Respondent was assigned to the representation. At some point, Respondent became disassociated from the law firm, but continued representing the client. Respondent’s representation of the client was not competent, she failed to act with reasonable diligence and to keep the client reasonably informed, and persistently engaged in a “barrage of excuse-making” for her inadequate representation. An additional client who was considering filing for divorce met with Respondent. After communicating with Respondent for months, the client instructed Respondent to file the divorce complaint. The client also informed Respondent that she intended to file for bankruptcy. Respondent failed to inform the client that if she filed bankruptcy while her divorce case was pending, the divorce case would be placed on an automatic stay pending the completion of the bankruptcy case. Respondent finally filed the divorce complaint and the court scheduled a final hearing. Respondent failed to appear in court, the court rescheduled the hearing, and again Respondent did not appear. Respondent made excuses for why she missed the second hearing and offered the client a refund. Respondent also told the client that she would appear at the next scheduled hearing, but Respondent failed to appear, and the client never received the promised refund. The client’s case was ultimately stayed because of her separate bankruptcy case. The client indicated that she would not have filed for bankruptcy if she had known it would stay the divorce.

SANCTION: The Board adopted the panel’s findings of fact, conclusions of law, and recommended sanction of an indefinite suspension. The Court imposed the indefinite suspension, with reinstatement conditioned on a refund to the divorce client, a substance abuse and mental health evaluation, and compliance with any treatment recommendations.

CASE AUTHORITY FOR SANCTION: *Mathewson* (2007); *Hoff* (2010); *Golden* (2002)

Rules Violated: Prof.Cond.R. [1.1](#), [1.3](#), [1.4\(a\)\(3\)](#), [1.4\(a\)\(4\)](#), [1.4\(b\)](#), [1.4\(c\)](#), [3.3\(a\)\(3\)](#), [8.1\(b\)](#), [8.4\(c\)](#), [8.4\(d\)](#), [8.4\(h\)](#); Gov.Bar R. [V\(4\)\(G\)](#)

Aggravation/ Mitigation: **A-** [\(b\)](#) (dishonest or selfish motive), [\(c\)](#) (pattern of misconduct), [\(d\)](#) (multiple offenses), [\(e\)](#) (lack of cooperation), [\(f\)](#) (false or deceptive practices during investigations), [\(g\)](#) (refusal to acknowledge wrongdoing), [\(h\)](#) (harm to vulnerable victim), [\(i\)](#) (no restitution); **M-** [\(a\)](#) (no prior discipline)

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: NO	Public Official: NO	Prior Discipline: NO	
Sanction: Indefinite suspension			

Bricker, Disciplinary Counsel v.
[137 Ohio St.3d 35, 2013-Ohio-3998](#). Decided 9/18/2013.

OVERVIEW: Respondent failed to hold client funds in an interest-bearing trust account, failed to maintain trust account records, and failed to perform and retain a monthly reconciliation of client funds. Respondent was previously suspended for failure to register, but was reinstated four days later after he paid the applicable fees.

FINDINGS: Respondent maintained a client trust account at PNC Bank that was designated as an IOLTA. Respondent previously kept personal and client funds in a checking account that he designated as his “trust account” at Farmers National Bank. Less than two weeks after Respondent opened his IOLTA, he issued a check from the account to pay a personal expense. For about one year, Respondent continued to issue checks and authorize electronic payments from the account for his personal and business expenses. Respondent failed to maintain ledgers of the client funds held in the IOLTA and he did not reconcile the account balance with ledger balances for each client. Respondent handled a number of collection matters on a contingent-fee basis. Respondent executed letters of representation that stated his fee would be one-third of the amount collected on behalf of his clients. Respondent deposited the funds that he collected into his IOLTA and disbursed the client’s share of the proceeds, while retaining his contingent fee. Respondent did not prepare closing statements in these collection cases. The Court did not adopt Respondent’s argument that Prof.Cond.R. 1.5(c)(2) is inapplicable in collection cases with contingency fees.

SANCTION: The parties submitted stipulations of fact and misconduct. The panel dismissed an alleged violation of Prof.Cond.R. 8.4(h). The Board adopted the panel’s findings of fact, conclusions of law, and recommended sanction of a public reprimand. Relator objected to the dismissal of the Prof.Cond.R. 8.4(h) violation and contended that the recommended sanction was more lenient than the sanctions that the Court had previously imposed for comparable misconduct. The Court overruled Relator’s objections and imposed a public reprimand. Regarding Prof.Cond.R. 8.4(h), the Court held that “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 specific rule violation is so egregious as to warrant an additional finding that it adversely reflects on the lawyer’s fitness to practice law.”

CASE AUTHORITY FOR SANCTION: *Seibel* (2012); *Piszczek* (2007)

DISSENT: Justice Kennedy dissented and would have imposed a six-month stayed suspension.

Rules Violated: Prof.Cond.R. [1.15\(a\)](#), [1.15\(a\)\(2\)](#), [1.15\(a\)\(5\)](#)

Aggravation/ Mitigation: **A-(a)** (prior discipline); **M-** **(b)** (no dishonest or selfish motive), **(d)** (cooperative attitude), **(e)** (good character)

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: NO	Public Official: NO	Prior Discipline: YES	
Sanction: Public Reprimand			

Brown-Daniels, Cleveland Metro. Bar Assn. v.
[135 Ohio St.3d 278, 2013-Ohio-955](#). Decided 3/19/2013.

OVERVIEW: Respondent failed to provide competent representation to a client, engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation, conduct that is prejudicial to the administration of justice, and conduct that adversely reflected on her fitness to practice law.

FINDINGS: Respondent served as board counsel for an organization known as Associated Real Estate Counseling. When that organization ceased operations, Respondent agreed to represent a number of its clients in bankruptcy proceedings. Respondent appeared in the bankruptcy court to show cause why she had not complied with the court's order to return a \$650 fee. Respondent advised the court that she kept the fee because she had negotiated with the debtors to apply it to their new bankruptcy filing. The court could not confirm Respondent's explanation because she had failed to file the required disclosure of compensation in the new case. Therefore, the court found that Respondent failed to comply with its previous order and revoked her electronic-filing privileges. After the court suspended Respondent's electronic-filing privileges, Respondent arranged for an attorney with no bankruptcy experience to assist her with her bankruptcy practice. The testimony of Respondent and the other attorney indicated differing views on the scope of their relationship and their roles. Respondent and the other attorney appeared before the bankruptcy court to address show cause orders issued against them in three separate proceedings. The court found that Respondent had breached the standards that apply to attorneys practicing in the bankruptcy court and barred Respondent from filing any new bankruptcy petitions or participating as counsel in cases filed by other attorneys until she satisfied certain educational requirements and obtained the court's written permission to resume bankruptcy filings. Respondent was the subject of multiple disgorgement orders in cases before the bankruptcy court. In at least three of those cases, the court found Respondent in contempt and ordered her to pay sanctions of \$25 per day until she complied with the disgorgement orders.

SANCTION: The panel and Board recommended a one-year suspension, with six months stayed on conditions. The Court adopted the recommended sanction on the conditions that Respondent commit no further misconduct, complete six hours of CLE, and remit or resolve all fines and costs assessed by the bankruptcy court. Also, before seeking reinstatement Respondent must submit evidence that she has complied with the continuing education requirements imposed by the bankruptcy court.

CASE AUTHORITY FOR SANCTION: *Nance* (2009); *Gerchak* (2011)

Rules Violated: Prof.Cond.R. [1.1](#), [8.4\(c\)](#), [8.4\(d\)](#), [8.4\(h\)](#)

Aggravation/ Mitigation: **A-** [\(c\)](#) (pattern of misconduct), [\(d\)](#) (multiple offenses), [\(g\)](#) (refusal to acknowledge wrongdoing), [\(i\)](#) (no restitution); **M-** [\(a\)](#) (no prior discipline), [\(f\)](#) (other penalties/sanctions)

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: NO	Public Official: NO	Prior Discipline: NO	
Sanction: One-year suspension, with six months stayed on conditions			

Bunstine, Disciplinary Counsel v.
[136 Ohio St.3d 276, 2013-Ohio-3681](#). Decided 8/28/2013.

OVERVIEW: Respondent engaged in conduct that adversely reflected on his fitness to practice law by soliciting a client. The Court previously suspended Respondent for six months, all stayed, on the condition that he not commit any additional disciplinary violations.

FINDINGS: Respondent was retained by a client to seek relief from a judgment granting companionship to her children's biological father. Respondent filed a motion for a new trial or relief from judgment. Later, Respondent filed a motion to dismiss, arguing that the court lacked jurisdiction because the father filed the action in the wrong county. The court granted the motion to dismiss. Soon thereafter, the biological father filed a companionship action against Respondent's client in the correct county. The client appeared without counsel at the hearing and indicated that Respondent could not be present. The court continued the hearing, and Respondent received a courtesy copy of the court's entry regarding the continuance. Subsequently, Respondent and the client met for less than one hour in Respondent's office. During the meeting, the client inquired about arranging payment of Respondent's fees. In response, Respondent suggested that he could visit her home. Respondent told the client to get rid of her fiancé, find a babysitter for her two children, and answer the door naked. The client became disgusted, upset, and scared by Respondent's statement and immediately left his office. Soon after she left, Respondent called the client and asked if he could come to her home. The client said no, but Respondent nevertheless drove 35 minutes to the client's home. When Respondent arrived, he was confronted by the client's fiancé and her fiancé's father. After a discussion, Respondent drove away. Respondent returned a short time later and asked if he could return with his wife, so that the client could explain to her what had happened. Respondent returned with his wife, who had a conversation with the client. The client permitted Respondent to represent her at an upcoming hearing because she did not have sufficient time to hire new counsel (the hearing date was five days after the incident).

SANCTION: The Board adopted the findings of fact, conclusions of law, and recommended sanction of a one-year suspension, with six months stayed. Respondent filed objections challenging all but a few of the Board's factual findings, the findings of misconduct, the application of aggravating and mitigating factors, and the recommended sanction. The Court overruled Respondent's objections, agreed with the Board, and imposed the recommended sanction. In its decision, the Court deferred to the panel's decision to credit the testimony of the client over that of Respondent.

CASE AUTHORITY FOR SANCTION: *Booher* (1996); *Feneli* (1999); *Miller* (2011); *Lockshin* (2010); *Quatman* (2006); *Moore* (2004); *Miller* (2011); *Williams* (2004)

DISSENT: Justice O'Neill dissented and would have imposed an indefinite suspension.

Rules Violated: Prof.Cond.R. [1.8\(j\)](#), [8.4\(h\)](#)

Aggravation/ Mitigation: A- [\(a\)](#) (prior discipline), [\(b\)](#) (dishonest or selfish motive), [\(h\)](#) (harm to vulnerable victim); M- None

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: NO	Public Official: NO	Prior Discipline: YES	
Sanction: One-year suspension, with six months stayed on conditions			

Carr, Akron Bar Assn. v.

135 Ohio St.3d 390, 2013-Ohio-1485. Decided 4/17/ 2013.

OVERVIEW: Respondent acted incompetently, charged clearly excessive fees, made false statements to Relator, and prejudiced his clients' interests. Approximately one year prior to this case, Respondent was suspended for six months, with the entire suspension stayed on conditions, for charging an excessive fee. Approximately one month prior to this case, the Court found Respondent in contempt for failing to pay costs, revoked the stay of Respondent's six-month suspension, and ordered him to serve the entire six months as an actual suspension.

PROCEDURE: Respondent failed to answer the complaint and Relator filed a motion for default. A master commissioner was appointed, made findings of fact and conclusions of law, and recommended an indefinite suspension. The Board adopted the recommendation of an indefinite suspension.

FINDINGS: Respondent was retained through Relator's lawyer referral service to handle a case involving unpaid federal income tax. Respondent acted incompetently by filing an eight page brief without any exhibits or supporting materials. The federal court granted summary judgment against Respondent's clients, finding them liable for \$520,810 in unpaid taxes. In the district court's opinion, the judge explained that the clients' legal argument suffered from "one significant, fatal flaw": "they offered no evidence of any kind." Respondent billed his client \$70,272 in fees relating to the federal tax lawsuit and the client paid him \$65,190. Respondent's billing invoices did not match his work product. Respondent also failed to honor his agreement with Relator's lawyer-referral service. Respondent should have remitted \$9,748.50 to the service, but he paid only \$1,430. Respondent refused to acknowledge the wrongful nature of his conduct by testifying that he had met his obligations under the referral-service agreement.

SANCTION: The Court adopted the Board's findings of fact and conclusions of law and imposed an indefinite suspension.

CASE AUTHORITY FOR SANCTION: *Torian* (2005); *Brown* (2009); *Gottehrer* (2010); *Golden* (2002)

Rules Violated: Prof.Cond.R. 1.1, 1.5(a), 4.1(a), 8.4(a), 8.4(c), 8.4(d), 8.4(h)

Aggravation/ Mitigation: A- (a) (prior discipline), (b) (dishonest or selfish motive), (e) (lack of cooperation), (f) (false or deceptive practices during investigation), (g) (refusal to acknowledge wrongdoing); M- NONE

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: YES	Public Official: NO	Prior Discipline: YES	
Sanction: Indefinite suspension			

[Table of Cases](#)

[Index](#)

DeGidio, Disciplinary Counsel v.

135 Ohio St.3d 407, 2013-Ohio-1509. Decided 4/18/2013.

OVERVIEW: Respondent failed to preserve the identity of client funds and property, engaged in conduct that is prejudicial to the administration of justice and conduct that adversely reflected on his fitness to practice law, and failed to cooperate in the disciplinary process.

PROCEDURE: Respondent failed to answer the complaint and Relator filed a motion for default. A master commissioner was appointed, made findings of fact and conclusions of law, and recommended a two-year suspension, with the second year stayed. The Board adopted the recommended sanction and further recommended that the stay be conditioned on Respondent's completion of a continuing legal education course that addresses the proper use and maintenance of a client trust account.

FINDINGS: Respondent commingled personal and client funds in his client trust account, using that account to pay personal and business expenses, and wrote and negotiated five trust account checks that were issued payable to "cash." Respondent deposited personal funds, including a birthday check he had received from his sister, into his client trust account. Respondent's client trust account had a balance of \$1,007.42 when he deposited a \$5,650 check from a client. Respondent issued a \$450 check to cover fees associated with filing the client's appeal in federal court. However, before the clerk could negotiate the check, Respondent issued an additional \$6,595 in checks-a \$5,000 check for his fee, a check for a personal or business obligation, and a check for cash. When the \$450 check was negotiated, the account became overdrawn.

SANCTION: The Court adopted the Board's findings of fact and conclusions of law, and imposed the recommended sanction of a two-year suspension, with the second year stayed on the conditions of no further misconduct and six hours of CLE in trust account management.

CASE AUTHORITY FOR SANCTION: *Morgan* (2007)

DISSENT: Chief Justice O'Connor dissented and would have imposed an indefinite suspension.

Rules Violated: Prof.Cond.R. [1.15\(a\)](#), [8.1\(b\)](#), [8.4\(d\)](#), [8.4\(h\)](#); Gov.Bar R. [V\(4\)\(G\)](#)

Aggravation/ Mitigation: A- [\(e\)](#) (lack of cooperation); M- [\(a\)](#) (no prior discipline)

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: YES	Public Official: NO	Prior Discipline: NO	
Sanction: Two-year suspension, with one-year stayed on conditions			

Detweiler, Disciplinary Counsel v.
[135 Ohio St.3d 447, 2013-Ohio-1747](#). Decided 5/2/2013.

OVERVIEW: Respondent engaged in sexual activity with a client that limited his ability to carry out appropriate action for the client and engaged in conduct that adversely reflected on his fitness to practice law. Respondent previously received a public reprimand for engaging in an improper sexual relationship with a client.

PROCEDURE: The parties submitted a consent-to-discipline agreement, but the Board rejected the agreement and remanded the matter to the panel for further proceedings.

FINDINGS: A former client paid Respondent a \$3,500 retainer to handle her divorce. After filing the divorce complaint, Respondent began to send the client text messages of a personal nature. Respondent's initial texts appeared to be harmless, but later included social invitations and progressed into comments of a sexual nature. Respondent texted the client about her clothing and how it made him feel sexually, and indicated that he wanted to have sex with her. Respondent admitted that he sent her a nude picture of his lower body in a state of sexual arousal. The client did not initially make her discomfort known to Respondent, but following a text message in which Respondent asked her to have oral sex with him, she sent him a text message rejecting his solicitation. The client stated that when Respondent sent her the photograph, she had already spent \$10,000 in fees and expenses and could not afford to retain new counsel. Therefore, she continued with the representation and tried to avoid Respondent's sexual advances.

SANCTION: The parties submitted stipulations and recommended that Respondent receive a six-month, fully stayed suspension. The panel adopted the parties' stipulations of fact and misconduct, but recommended a one-year suspension, all stayed on conditions. The Board adopted the panel's findings of fact and conclusions of law, but recommended a one-year suspension, with six months stayed on conditions. Respondent objected to the Board's increased sanction. The Court overruled Respondent's objection, and imposed a one-year suspension with reinstatement conditioned on the submission of proof that he has submitted to an OLAP evaluation and complied with any treatment recommendations. Critical factors for the Court were Respondent's unsolicited and unwelcome sexual advances on a vulnerable client and the escalation of such advances.

CASE AUTHORITY FOR SANCTION: *Detweiler* (2010); *Schmalz* (2009); *Engler* (2006); *Siewert* (2011); *Burkholder* (2006); *Moore* (2004); *Lockshin* (2010); *Sturgeon* (2006)

DISSENT: Justices Pfeifer and O'Neill dissented and would have imposed a one-year suspension, with six months stayed.

Rules Violated: Prof.Cond.R. [1.7\(a\)\(2\)](#), [1.8\(j\)](#), [8.4\(h\)](#)

Aggravation/ Mitigation: A- [\(b\)](#) (dishonest or selfish motive), [\(c\)](#) (pattern of misconduct), [\(h\)](#) (harm to vulnerable victim); M- [\(d\)](#) (cooperative attitude)

Court Modified Sanction: YES		Criminal Conduct: NO	
Procedure/ Process Issues: YES	Public Official: NO	Prior Discipline: YES	
Sanction: One-year suspension			

Evans, Ohio State Bar Assn. v.

137 Ohio St.3d 441, 2013-Ohio-4992. Decided 11/19/2013.

OVERVIEW: Respondent, a common pleas court judge, failed to disqualify himself in a proceeding in which he had an admitted conflict with a public defender. Respondent also failed to keep private all proceedings and documents relating to the review and investigation of his grievance against the public defender.

PROCEDURE: The parties submitted a consent-to-discipline agreement that included stipulated findings of fact and misconduct. The Board rejected the agreement and remanded the case for further proceedings. On remand, the parties waived the hearing and submitted stipulated facts and misconduct and a recommended sanction of a stayed six-month suspension. The Board adopted the stipulations and recommended sanction.

FINDINGS: As the only judge of the Gallia County Common Pleas Court, Respondent presided over all felony cases. The Gallia County public-defender commission employed a public defender to represent indigent criminal defendants in the Gallia County Common Pleas Court. The public defender represented a defendant who had initially agreed to enter into a plea agreement, but during the plea hearing, decided against it. Moments later, the defendant changed his mind again, but at that point, Respondent refused to accept the plea. Respondent again refused to accept the plea agreement three days later when the public defender and the county prosecutor jointly requested that the Respondent allow a plea change. Thereafter, the public defender filed an 18-page motion requesting that Respondent accept the plea agreement and characterizing the Respondent's refusal to do so as "an abuse of discretion" and "unreasonable and/or arbitrary and/or unconscionable." The public defender also criticized, at length, some of Respondent's other courtroom practices, such as the Respondent's "drop-dead date" for pleas. Respondent later described the public defender's motion as "scathing" and showing the public defender's "bias toward and contempt for the court." Respondent sent a copy of the motion to Disciplinary Counsel. Respondent overruled the public defender's motion and sua sponte removed the public defender as counsel in the matter. Respondent next filed entries that removed the public defender as appointed counsel in 63 other criminal cases. The entry in each case stated that the public defender was "relieved of further obligation due to the conflict he created with the Court" and "due to the Court's inquiry to the Office of Disciplinary Counsel, Supreme Court of Ohio regarding [the public defender's] conduct." Respondent's actions eliminated the public defender's entire caseload, and within a month of Respondent's entries, the Gallia County public defender terminated the public defender's employment. Respondent, in his entries removing the public defender, implied that the public defender was the subject of a disciplinary investigation, even though disciplinary matters must be kept private and confidential until there has been a finding of probable cause or certification of a complaint.

SANCTION: The Board accepted the findings of fact, conclusions of law, and recommended sanction of a six-month stayed suspension. Citing Respondent's serious ethical violations and the significant harm caused by his misconduct, the Court imposed a one-year stayed suspension.

CASE AUTHORITY FOR SANCTION: *Gaul* (2010); *McCormack* (2012); *Campbell* (2010); *Russo* (2010)

DISSENT: Justice O'Donnell dissented and would have imposed a six-month stayed suspension, as recommended by the Board. In a separate dissenting opinion, Justice Pfeiffer indicated he would have imposed a public reprimand, stating that judges in smaller counties encounter problems that judges in larger counties are able to address more easily. Justice Pfeiffer opined that when a judge in a large county has an irreconcilable conflict with an attorney, that attorney's cases can be assigned to another judge. In contrast, smaller counties that have only one general division judge cannot take this approach. Justice Pfeiffer stated "it is more sensible for the attorney to give way than the judge."

Rules Violated: Jud.Cond.R. 2.11; Gov.Bar R. V(11)(E)

Aggravation/ Mitigation: A-(d) (multiple offenses), (h) (harm to vulnerable victim); M- (a) (no prior discipline), (b) (no dishonest or selfish motive), (d) (full and free disclosure), (e) (good character)

Court Modified Sanction: YES		Criminal Conduct: NO	
Procedure/ Process Issues: YES	Public Official: YES	Prior Discipline: NO	
Sanction: One-year suspension, stayed on conditions			

[Table of Cases](#)

[Index](#)

Eynon, Disciplinary Counsel v.
 135 Ohio St.3d 274, 2013-Ohio-953. Decided 3/19/2013.

OVERVIEW: Respondent used his client trust account for his personal and business-related banking and failed to cooperate in the disciplinary process.

PROCEDURE: Respondent failed to answer the complaint and Relator filed a motion for default. A master commissioner was appointed, made findings of fact and conclusions of law, and recommended a two-year suspension, with 12 months stayed. The Board adopted the findings of fact, conclusions of law, and recommended sanction. Respondent filed objections to the Board report and moved the Court to remand the cause to the Board so that he could submit mitigating evidence or supplement the record with a psychological report under seal. The Court granted the motion, and remanded the cause to the Board for the consideration of mitigating evidence and ordered the parties to submit a redacted copy of the psychological report.

FINDINGS: Relator submitted evidence with its motion for default indicating that two items posted to Respondent's client trust account had been returned for insufficient funds. Over the next several months, Relator sent Respondent several letters, but Respondent did not respond. Respondent also failed to respond to a subpoena duces tecum ordering him to appear for a deposition and produce his client trust account records. Relator ultimately subpoenaed the trust account records. At the hearing, Respondent did not dispute that he had overdrawn his client trust account or that he had paid a number of personal and business expenses out of the account. Respondent had deposited money from his wife into the account to cover those expenses. A psychological evaluation documented that Respondent suffered from major depression occasioned by a series of personal tragedies, including the substance abuse and addiction of one of his children, the untimely death of a grandchild, and an unsuccessful investment.

SANCTION: Upon remand, the Board recommended that Respondent be suspended from the practice of law for one year, all stayed on conditions. The Court imposed the recommended sanction, conditioned on compliance with an OLAP contract and satisfactory completion of counseling.

CASE AUTHORITY FOR SANCTION: *Maguire* (2012); *Simon* (2011)

Rules Violated: Prof.Cond.R. 1.15(a), 1.15(b), 8.1(b), 8.4(d), 8.4(h); Gov.Bar R. V(4)(G)

Aggravation/ Mitigation: A- (c) (pattern of misconduct), (d) (multiple offenses), (e) (lack of cooperation); M- (a) (no prior discipline), (b) (no dishonest or selfish motive), (e) (good character), (g) (chemical/mental illness)

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: YES	Public Official: NO	Prior Discipline: NO	
Sanction: One-year suspension, fully stayed on conditions			

[Table of Cases](#)

[Index](#)

Farah, Toledo Bar Assn. v.

136 Ohio St.3d 295, 2013-Ohio-3680. Decided 8/28/2013.

OVERVIEW: Respondent failed to provide competent representation to a client, act with reasonable diligence, keep the client reasonably informed, comply with requests for information from the client, and cooperate in the disciplinary process. Respondent was previously suspended for one year, with the entire suspension stayed, on conditions that he submit to a mental-health evaluation conducted by OLAP, comply with all of OLAP's treatment recommendations, and submit to one year of monitored probation. The Court subsequently suspended Respondent for failure to register for the 2011-2013 biennium. In response to a certified report from the Board on Relator's motion, the Court revoked Respondent's probation, lifted the stay, and ordered him to serve the entire one-year suspension originally imposed in the prior case.

PROCEDURE: Respondent failed to answer the complaint and Relator filed a motion for default. A master commissioner was appointed, made findings of fact and conclusions of law, and recommended an indefinite suspension to run consecutively to the prior one-year suspension. The Board adopted the recommended sanction.

FINDINGS: Respondent committed the misconduct in this case during the year following his stayed suspension, but before the registration suspension. He was retained and paid \$1,500 to assist a client in reinstating her visitation rights with her granddaughter. Respondent filed a show-cause motion and attended a pre-trial hearing on the client's behalf. On the day of trial, the parties appeared and advised the court that they had reached a settlement. The parties read the settlement agreement into the record and the court instructed Respondent to submit a consent judgment entry. Respondent failed to file the entry and the court dismissed the matter. Respondent never contacted the client after the trial date and she was unable to reach him by phone, text, or personal appearance at his office. As a result of Respondent's failure to submit the judgment entry to the court, the client had to retain new counsel and restart the process.

SANCTION: The Court adopted the Board's findings of fact and conclusions of law, and imposed the recommended sanction of an indefinite suspension to run consecutively to the one-year suspension.

CASE AUTHORITY FOR SANCTION: *Snyder* (1999); *Boykin* (1998)

Rules Violated: Prof.Cond.R. 1.1, 1.3, 1.4(a)(3), 1.4(a)(4), 8.1(b); Gov.Bar R. V(4)(G)

Aggravation/ Mitigation: A- (a) (prior discipline), (e) (lack of cooperation); M- None

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: YES	Public Official: NO	Prior Discipline: YES	
Sanction: Indefinite suspension to run consecutively to the prior one-year suspension			

[Table of Cases](#)

[Index](#)

Fletcher, Disciplinary Counsel v.

135 Ohio St.3d 404, 2013-Ohio-1510. Decided 4/18/2013.

OVERVIEW: Respondent continued to practice law while under a suspension, knowingly made a false statement of material fact in connection with his disciplinary case, failed to act with reasonable diligence in representing a client, engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation, engaged in conduct that adversely reflected on his fitness to practice, and engaged in conduct that is prejudicial to the administration of justice. Respondent was previously suspended for six months, with six months stayed on conditions. The Court found Respondent in contempt for failure to pay costs, revoked the stay, and imposed an actual six-month suspension. Respondent never filed for reinstatement and his suspension remained in effect at the time of this case.

FINDINGS: Although Respondent's license to practice law in Ohio has been continuously suspended since 2010, he failed to advise his clients, opposing counsel, or the courts of that suspension. Respondent continued to represent two existing clients and began to represent two additional clients during his suspension. Respondent identified himself as an attorney, counseled the clients, appeared and represented them in court, and filed documents on their behalf. Respondent also falsely advised a client that a hearing had been canceled and instructed his client not to appear in court. The client disregarded his instruction, appeared at the hearing without Respondent, and was able to have her spousal support payments reduced. When Respondent was confronted by the client, who had learned of his suspension, Respondent told her that the suspension would be resolved in 30 days. Respondent stopped litigating her case, though he did not formally withdraw from the representation for an additional two weeks. Also, Respondent falsely testified at his deposition that he had not represented any clients in 2011, when in fact he had appeared at a plea hearing on behalf of a client in juvenile court just days earlier.

SANCTION: The Board adopted the findings of fact, conclusions of law, and recommended sanction of permanent disbarment. The Court agreed with the Board and imposed the recommended sanction.

CASE AUTHORITY FOR SANCTION: *Sabroff* (2009); *Frazier* (2006); *Allison* (2003)

Rules Violated: Prof.Cond.R. 1.3, 5.5(a), 8.1(a), 8.4(c), 8.4(d), 8.4(h)

Aggravation/ Mitigation: A- (a) (prior discipline), (c) (pattern of misconduct), (d) (multiple offenses); M- (c) (restitution or rectified consequences), (d) (cooperative attitude)

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: NO	Public Official: NO	Prior Discipline: YES	
Sanction: Disbarment			

Freeman, Cleveland Metro. Bar Assn. v.
[135 Ohio St.3d 263, 2013-Ohio-736](#). Decided 3/6/2013.

OVERVIEW: Respondent overdrew his client trust account, failed to reasonably communicate with two clients, neglected one client matter, failed to protect a client's interests upon the termination of his representation, failed to promptly refund the unearned portion of his fee upon withdrawal from employment, committed an illegal act that adversely reflected on his honesty and trustworthiness, engaged in conduct that adversely reflected on his fitness to practice law, and failed to cooperate in the disciplinary investigation. Respondent received a public reprimand in 2002, and in 2011 received a one-year suspension, fully stayed on conditions.

PROCEDURE: Respondent failed to answer the complaint and Relator filed a motion for default. A master commissioner was appointed, made findings of fact and conclusions of law, and recommended disbarment. The Board adopted the recommendation of disbarment.

FINDINGS: This case involved two clients. First, Respondent was retained to file a Chapter 7 bankruptcy and received attorney and filing fees totaling \$2,177. Respondent never filed the bankruptcy petition and failed to respond to the client's inquiries. The same client paid Respondent an additional \$825 to represent him in a foreclosure action. The client forwarded a notice to Respondent indicating that the bank had initiated collection proceedings against the client. Respondent did not respond to the correspondence or to the client's subsequent notice of termination and request for a refund. Second, Respondent was retained to file an emergency Chapter 13 bankruptcy. Respondent filed two bankruptcy petitions on the client's behalf, but the bankruptcy court dismissed them because of the client's failure to make payments. The client retained Respondent again to file a third bankruptcy and gave him more than \$16,000, representing six months of the payments required by her previous Chapter 13 plan. Instead of filing a Chapter 13, Respondent filed a Chapter 7, and deducted his \$1,200 fee and \$426 in filing fees from the funds. Respondent also failed to seek a mortgage loan modification on behalf of the client. Respondent consistently failed to return the client's telephone calls. The client terminated the representation and requested a refund. When Respondent did not return the money, the client filed a police report and applied for reimbursement from the Clients' Security Fund. Respondent also overdrew his client trust account and did not respond to Relator's requests for an explanation.

SANCTION: The Court adopted the Board's findings of fact and conclusions of law, and permanently disbarred Respondent.

CASE AUTHORITY FOR SANCTION: *Moushey* (2004)

Rules Violated: Prof.Cond.R. 1.3, 1.4(a)(2), 1.4(a)(3), 1.4(a)(4), 1.15(a), 1.16(d), 1.16(e), 8.1(b), 8.4(b), 8.4(h); Gov.Bar R. V(4)(G)

Aggravation/ Mitigation: A- (a) (prior discipline), (c) (pattern of misconduct), (d) (multiple offenses), (e) (lack of cooperation), (g) (refusal to acknowledge wrongdoing), (h) (harm to vulnerable victim), (i) (no restitution); M- NONE

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: YES	Public Official: NO	Prior Discipline: YES	
Sanction: Disbarment			

Gill, Columbus Bar Assn. v.

137 Ohio St.3d 277, 2013-Ohio-4619. Decided 10/24/2013.

OVERVIEW: Respondent was charged with multiple violations of the Rules of Professional Conduct, some of which related to lapses in sobriety. Respondent previously received an indefinite suspension for improperly endorsing a client's name on a settlement check and converting a portion of the settlement amount to personal use. Respondent's dependency on alcohol and drugs was a significant factor in his prior misconduct. Respondent also had a prior CLE suspension. Respondent was reinstated from both suspensions at the time of this case. He further failed to cooperate with the disciplinary investigation.

FINDINGS: Respondent stipulated to 41 rule violations. Out of the ten grievances filed against him, six were from relatives of clients or potential clients. The acts of misconduct in these matters were similar and resulted mostly from a failure to effectively communicate with clients, especially about the basis of Respondent's fees and lack of malpractice insurance. Respondent did not have a client trust account and failed to hold client funds separate from his own. Relator also received grievances against Respondent from a common pleas court judge, a municipal court judge, and an appellate court administrator. In the common pleas case, the judge denied Respondent's request for a continuance of a trial, but Respondent instructed his client not to appear for the scheduled trial. When Respondent appeared by himself, one hour and 45 minutes late, Respondent was charged with contempt of court. In the municipal court case, Respondent appeared three hours late for a hearing. The judge suspected that Respondent was under the influence of alcohol and had an officer administer an alcohol test. The test registered Respondent's breath-alcohol content as .022. The judge reprimanded Respondent and excused him from the courtroom. In the appellate court case, Respondent filed an untimely notice of appeal on behalf of two codefendants. The court allowed the delayed appeals, but Respondent failed to timely file merit briefs, resulting in dismissal of the appeals. Respondent further pled guilty to reckless operation of a motor vehicle for rear-ending a car on the highway, leaving the accident scene, and failing to report the accident. Respondent ignored all of Relator's attempts to secure responses to the various grievances.

SANCTION: The panel accepted the parties' stipulations of fact and misconduct, with one exception, and recommended that Respondent be suspended from the practice of law for two years, with 18 months stayed on conditions. The Board adopted the panel's findings of fact and misconduct, but recommended an indefinite suspension. Respondent objected to the Board's recommended sanction, arguing that an indefinite suspension was overly punitive and not supported by the record or the Court's precedent. The Court adopted the Board's findings of fact and misconduct, but sustained Respondent's objection. The Court imposed a two-year suspension, with one year stayed, on the condition that within 60 days of the Court's suspension order, Respondent obtain and begin wearing an alcohol-monitoring device on his ankle for the remainder of the two-year term suspension. The stay would be lifted if the device detects alcohol. Respondent must also demonstrate that he has met the Board's conditions before applying for reinstatement. These conditions included establishing a trust account, OLAP compliance, and the opinion of a medical professional that Respondent can return to the practice of law.

CASE AUTHORITY FOR SANCTION: *Leskan* (2013)

DISSENT: Chief Justice O'Connor and Justices Lanzinger and French dissented, and would have imposed an indefinite suspension, as recommended by the Board.

Rules Violated: Prof.Cond.R. 1.3, 1.4(a), 1.4(b), 1.4(c), 1.5(b), 1.5(d)(3), 1.5(e), 1.15(a), 8.1(b), 8.4(d), 8.4(h); Gov. BarR. V(4)(G)

Aggravation/ Mitigation: A- (a) (prior discipline), (c) (pattern of misconduct), (d) (multiple offenses); M- (b) (no dishonest or selfish motive), (e) (good character), (g) (chemical/mental illness)

Court Modified Sanction: YES		Criminal Conduct: YES	
Procedure/ Process Issues: NO	Public Official: NO	Prior Discipline: YES	
Sanction: Two-year suspension, with one year stayed on conditions			

Greenberg, Dayton Bar Assn. v.
[135 Ohio St.3d 430, 2013-Ohio-1723](#). Decided 5/1/2013.

OVERVIEW: Respondent engaged in conduct that adversely reflected on his fitness to practice law and his honesty and trustworthiness. Respondent was found guilty of two federal felonies and the Court issued an interim felony suspension.

FINDINGS: Respondent used his computer to make contact with three undercover law enforcement officers who were posing on the Internet as 12- and 13-year-old girls. Respondent entered various chat rooms that were geared toward meeting minor girls and identified himself at various time as an 18-year-old, 25-year-old, and a 31-year-old male. A series of sexually explicit conversations ensued between Respondent and the undercover agents, during which Respondent used his computer's webcam to stream sexually explicit video to the agents. Respondent was indicted in federal court on one count of possessing child pornography and one count of transferring obscene material to minors. Respondent entered a plea of guilty to both counts. Respondent was sentenced to two years in a federal penitentiary, received five years of supervised release, and was classified as a sex offender, which allowed only incidental contact with minor children, except his biological children.

SANCTION: The parties' stipulated to the charged misconduct, findings of fact, and recommended sanction of an indefinite suspension, with no credit for time served under the interim suspension. The Board adopted the stipulations and the Court imposed the recommended sanction.

CASE AUTHORITY FOR SANCTION: *Butler* (2011); *Ridenbaugh* (2009); *Goldblatt* (2008)

DISSENT: Justice O'Donnell dissented and would have disbarred Respondent. Justice O'Neill dissented and would have granted Respondent credit for time served under his interim felony suspension.

Rules Violated: Prof.Cond.R. [8.4\(b\)](#), [8.4\(h\)](#)

Aggravation/ Mitigation: **A-** [\(b\)](#) (dishonest or selfish motive), [\(d\)](#) (multiple offenses), [\(h\)](#) (harm to vulnerable victim); **M-** [\(a\)](#) (no prior discipline), [\(c\)](#) (restitution or rectified consequences), [\(d\)](#) (cooperative attitude), [\(f\)](#) (other penalties/sanctions), [\(g\)](#) (chemical/mental illness)

Court Modified Sanction: NO		Criminal Conduct: YES	
Procedure/ Process Issues: NO	Public Official: NO	Prior Discipline: NO	
Sanction: Indefinite suspension			

Gruttadaurio, Cleveland Metro. Bar Assn.

136 Ohio St.3d 283, 2013-Ohio-3662. Decided 8/28/2013.

OVERVIEW: Respondent failed to act with reasonable diligence, place fees into a client trust account, refund unearned fees, perform contracted work, and advise his clients that he did not carry malpractice insurance. He also engaged in conduct that adversely reflected on his fitness to practice law and knowingly made false statements during the disciplinary proceedings.

FINDINGS: Respondent was retained to represent a client in a criminal appeal in the Eleventh District and, if necessary, an appeal to the Supreme Court of Ohio. The client was already represented by a public defender. In a written engagement letter, Respondent agreed to file a notice of substitution of counsel and reply brief, and present the oral argument if required. Respondent did not notify his client's public defender that he had been retained or file a notice of substitution of counsel in the case. Although Respondent attended the oral argument, he sat in the gallery while the public defender argued the case. The engagement letter stated that Respondent would provide legal representation pro bono, but that his client was responsible for the costs of the litigation. Despite the terms of the agreement, and prior to its execution, Respondent quoted a flat fee of \$4,000, which was paid in monthly installments over a ten-month period. The Eleventh District Court of Appeals affirmed the client's convictions. Notwithstanding Respondent's representation that he would appeal the case to the Supreme Court, he failed to timely file a notice of appeal and memorandum in support of jurisdiction. From the time that Respondent was retained until the deadline for initiating the appeal in the Supreme Court, Respondent often failed to answer or return the client's telephone calls and letters to Respondent were returned unclaimed. Respondent did not refund any of the fees that he had collected. Respondent did not maintain a client trust account during the time of his representation and deposited the \$4,000 into his business and personal bank accounts. Additionally, Respondent was retained to represent a client in a domestic-relations matter. Respondent filed the complaint, appeared for one pretrial conference, and drafted settlement paperwork, but failed to appear at the final hearing. In Respondent's engagement letters, he advised clients that he was "in the process" of applying for malpractice insurance, but failed to advise his clients later that he had discontinued his efforts to obtain insurance. The Court's opinion discusses flat fee versus hourly representation and overrules the Board's findings in regard to the statements Respondent made in the disciplinary process. Contrary to the Board, the Court concluded that Respondent violated Prof.Cond.R. 8.1(a) and 8.4(c).

SANCTION: The Board recommended a two-year suspension with 18 months stayed. The Court adopted the Board's findings of fact and misconduct, but rejected the Board's recommended sanction and imposed an indefinite suspension. The Court indicated that the mitigating factors identified by the Board did not warrant a lesser sanction.

CASE AUTHORITY FOR SANCTION: *Mathewson* (2007); *Verbiski* (1999)

DISSENT: Justices Pfeifer and O'Neill dissented and would have imposed a two-year suspension with 18 months stayed on conditions as recommended by the Board.

Rules Violated: Prof.Cond.R. 1.3, 1.4(a)(3), 1.4(c), 1.5(a), 1.15(a), 8.1(a), 8.4(c), 8.4(d), 8.4(h)

Aggravation/ Mitigation: A- (c) (pattern of misconduct), (d) (multiple offenses), (g) (refusal to acknowledge wrongdoing), (i) (no restitution); M- (a) (no prior discipline), (b) (no dishonest or selfish motive), (d) (cooperative attitude)

Court Modified Sanction: YES		Criminal Conduct: NO	
Procedure/ Process Issues: NO	Public Official: NO	Prior Discipline: NO	
Sanction: Indefinite suspension			

Hetzer, Toledo Bar Assn. v.

137 Ohio St.3d 572, 2013-Ohio-5480. December 12/19/2013.

OVERVIEW: Respondent improperly deducted his legal fee from funds held in trust and failed to safeguard escrow funds, deposit client funds into his client trust account, reconcile his trust account, maintain accounting statements, and act with reasonable diligence in representing a client.

PROCEDURE: The parties submitted a consent-to-discipline agreement that included stipulated findings of fact and misconduct. The Board rejected the agreement and remanded the matter for further proceedings. On remand, the parties submitted stipulated facts and misconduct and a recommended sanction of a public reprimand. The Board adopted the stipulations and recommended sanction.

FINDINGS: A client retained Respondent for representation in a domestic-relations matter and paid a \$10,000 retainer. The client gave Respondent an additional cash payment of \$5,000, although Respondent had not requested it. Respondent did not deposit the \$5,000 in his client trust account or account for those funds on his escrow summary sheet. Respondent received a \$64,762.12 check from the client representing the proceeds from the sale of a marital asset. Respondent did not deposit that check until three months later when the client gave him a check for \$5,400 from the sale of another marital asset. The client terminated Respondent's representation and Respondent wrote a \$4,277.50 check to himself for the balance of his legal fees, deducting the amount from the \$70,162.12 in marital funds. The full \$70,162.12 was ultimately deposited into successor counsel's trust account and the parties did not suffer any financial harm.

SANCTION: The Court adopted the Board's findings of fact and conclusions of law, and imposed the recommended sanction of a public reprimand.

CASE AUTHORITY FOR SANCTION: *Helbling* (2010)

Rules Violated: Prof.Cond.R. 1.3, 1.15(a), 1.15(a)(2), 1.15(a)(5), 1.15(e)

Aggravation/ Mitigation: A-NONE; M- (a) (no prior discipline), (d) (full and free disclosure), (e) (good character)

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: YES	Public Official: NO	Prior Discipline: NO	
Sanction: Public reprimand			

[Table of Cases](#)

[Index](#)

Hunt, Dayton Bar Assn. v.

135 Ohio St.3d 386, 2013-Ohio-1486. Decided 4/17/2013.

OVERVIEW: Respondent accepted a personal injury case that he was not competent to handle, neglected the malpractice case, and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation. Respondent had previously received a six-month suspension for neglect, lack of communication, and failure to cooperate.

FINDINGS: Approximately one year after he was admitted to practice, Respondent was retained in a personal injury matter. Both defendants moved for summary judgment, and Respondent did not file a response to either motion. The court granted both motions and dismissed the case. Respondent assured the client that the case remained active, and failed to communicate. When the client consulted another lawyer, she discovered that her case had been dismissed and the statute of limitations had run.

SANCTION: The Board adopted the panel's findings of fact and misconduct, and recommended an indefinite suspension. The Court agreed with the Board and imposed the recommended sanction.

CASE AUTHORITY FOR SANCTION: *Hickman* (2005); *Larson* (2009); *Glaeser* (2008); *Manning* (2006)

Rules Violated: DR 1-102(A)(4), 6-101(A)(1), 6-101(A)(2), 6-101(A)(3), 7-101(A)(1)

Aggravation/ Mitigation: A- (a) (prior discipline), (b) (dishonest or selfish motive), (c) (pattern of misconduct), (d) (multiple offenses), (h) (harm to vulnerable victim); M- NONE

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: NO	Public Official: NO	Prior Discipline: YES	
Sanction: Indefinite suspension			

[Table of Cases](#)

[Index](#)

Lawrence, Cincinnati Bar Assn.

137 Ohio St.3d 299, 2013-Ohio-4735. Decided 10/31/2013.

OVERVIEW: In 2004, Respondent was charged with professional misconduct regarding three clients, which arose from her failure to maintain complete records of the client funds in her possession, withdrawal of unearned fees from her client trust account, failure to perform contracted legal work, and failure to cooperate in the disciplinary investigation. In 2005, the Court imposed a mental-health suspension, which stayed the underlying disciplinary case. Respondent applied to terminate her mental-health suspension, alleging that the condition that caused her suspension had been removed. The Court terminated Respondent's mental-health suspension, but ruled that Respondent was not eligible for reinstatement because she had not complied with the Court's suspension order or her CLE requirements.

FINDINGS: Respondent admitted that she committed all of the misconduct charged in 2004. Respondent received a \$7,500 retainer from a client to handle a postdecree child-custody matter and the client agreed to a \$250 per hour fee. Respondent did not provide statements accounting for her fees, even when the client requested one to ascertain the status of her retainer. After the client terminated the relationship and filed a grievance against Respondent, she provided a final billing statement reflecting that she was entitled to an additional \$5,531, although she did not attempt to collect the funds. Respondent had withdrawn \$4,000 from her client trust account before earning that amount. Respondent was retained by a second client to terminate the client's marriage. Respondent estimated that her fee would be \$1,800 for a dissolution and \$2,500 for a divorce. The client paid Respondent \$2,500 for a divorce, but later directed her to draft dissolution documents. Respondent timely prepared the documents and had the parties execute them, but failed to file the documents within 45 days as she had promised and failed to respond after the client's repeated attempts to contact her. When Respondent finally filed the documents, she did not submit the required shared-parenting plan or QDRO. Respondent further failed to inform the client of the scheduled hearing date and failed to respond to the client's request for an accounting of her time and fees. Respondent was retained to represent a third client in a divorce action. The client paid Respondent a \$2,500 retainer and agreed to pay \$250 per hour for her services. Respondent filed the client's divorce complaint, but did not provide him with a copy and failed to respond to his requests for information. The domestic relations court issued a show-cause order to determine why the case should not be dismissed for lack of prosecution. Respondent did not respond to that order or attend the hearing, and the client was not present because Respondent gave him the wrong hearing date. The client terminated the representation and requested an accounting of his retainer and a refund of any unearned fees, which Respondent failed to provide.

SANCTION: The panel and Board recommended termination of Respondent's mental-health suspension and found that she committed the charged misconduct. The panel recommended an indefinite suspension, but the Board recommended a one-year suspension with certain conditions. The Court adopted the Board's recommendation and imposed a one-year suspension, with conditions on reinstatement. The conditions included CLE compliance, a mental health assessment, and an OLAP contract.

CASE AUTHORITY FOR SANCTION: *Polke* (2012); *Nigolian* (1999)

Rules Violated: DR 2-106(A), 6-101(A)(3), 7-101(A)(1), 7-101(A)(2), 7-101(A)(3), 9-102(A), 9-102(B)(3), 9-102(B)(4); Gov. BarR. V(4)(G); Gov. BarR. I(8)(A)

Aggravation/ Mitigation: A- (d) (multiple offenses); M- (a) (no prior discipline), (b) (no dishonest or selfish motive), (c) (restitution or rectified consequences), (e) (good character)

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: YES	Public Official: NO	Prior Discipline: NO	
Sanction: One-year suspension on conditions			

Lehmkuhl, Disciplinary Counsel v.
[137 Ohio St.3d 71, 2013-Ohio-4539](#). Decided 10/16/2013.

OVERVIEW: Respondent brought an action unsupported by law and failed to cooperate in the disciplinary proceedings.

PROCEDURE: After the Board filed its report, the Court remanded the case to the Board with instructions to clarify an apparent discrepancy between the findings stated in the panel report and the findings stated in the Board's report. The Board submitted a supplemental report, stating that the Board adopted a motion to amend the panel report to delete the findings of Prof.Cond.R. 8.4(d) and (h).

FINDINGS: Respondent initiated a defamation action against an incorrect defendant and failed to timely amend the complaint when he learned of the error. Respondent also failed to respond to letters of inquiry and to appear for a disciplinary deposition.

SANCTION: The Court adopted the Board's recommendation and imposed a public reprimand.

CASE AUTHORITY FOR SANCTION: *Fink* (2011); *Gallo* (2012)

Rules Violated: Prof.Cond.R. [3.1](#); Gov. Bar.R [V\(4\)\(G\)](#)

Aggravation/ Mitigation: A- NONE; M- [\(a\)](#) (no prior discipline)

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: YES	Public Official: NO	Prior Discipline: NO	
Sanction: Public Reprimand			

[Table of Cases](#)

[Index](#)

Leskan, Disciplinary Counsel v.

136 Ohio St.3d 85, 2013-Ohio-2415. Decided 6/13/2013.

OVERVIEW: Respondent was charged with 22 violations of the Rules of Professional Conduct arising from the improper handling of his client trust account.

FINDINGS: Respondent failed to maintain a general ledger or individual ledgers of client funds in his possession and misappropriated funds regarding multiple clients. Respondent opened a new client trust account and deposited a \$50 check from a prior client trust account he maintained at another bank. Respondent closed the prior trust account, although he should have held more than \$36,000 in trust for two clients at that time. Respondent did not transfer any funds to the new trust account because he had used his clients' money to pay his personal or business expenses or to pay other clients whose funds he had previously misappropriated. Over the next two and one-half years, Respondent repeatedly misappropriated funds from clients to satisfy his own financial obligations or obligations regarding other clients whose funds he had misappropriated. For example, Respondent deposited a \$137,500 check-the gross proceeds of a settlement he had obtained on behalf of his clients-into his trust account. After all the deductions, the clients were entitled to receive \$84,685.55. However, Respondent used the settlement proceeds to pay \$6,988.53 to other clients, \$19,730 to Toyota Financial on behalf of a client, and \$6,000 as a loan to a friend. Respondent issued a partial distribution of \$45,000 to the clients from his trust account and advised them that he would hold the remaining \$39,685.55 while he negotiated their outstanding medical bills and insurance-subrogation matters. However, Respondent had withdrawn the remaining proceeds to pay personal and business expenses, leaving just \$7.45 in his trust account. Two insurers agreed to waive their entire fee and the last subrogated insurer agreed to accept \$5,000 as final payment. Respondent paid that insurer using personal funds that he had deposited into his trust account the previous week. Also on two separate occasions, Respondent overdrew his trust account by depositing settlement checks into the account and using the money to pay personal and business expenses or to pay other clients.

SANCTION: The parties stipulated to facts, misconduct, and a two-year suspension with conditions. The panel rejected the stipulated sanction, finding that an indefinite suspension with the stipulated conditions on Respondent's reinstatement was more appropriate. The Board adopted the panel's findings of fact, misconduct, and recommended sanction. The Board acknowledged that Respondent had obtained treatment for depression and alcohol and gambling addictions. The Court agreed with the Board and imposed an indefinite suspension with reinstatement conditioned on 12 hours of CLE in law office management, implementation of a system to manage client funds, and compliance with an OLAP contract and treatment recommendations.

CASE AUTHORITY FOR SANCTION: *Rothermel* (2004); *Dixon* (2002); *Smithern* (2010)

Rules Violated: Prof.Cond.R. 1.4(a)(4), 1.15(a)(2), 1.15(a)(3), 1.15(a)(5), 1.15(b), 1.15(d), 8.4(c), 8.4(d), 8.4(h)

Aggravation/ Mitigation: A- (b) (dishonest or selfish motive), (c) (pattern of misconduct), (d) (multiple offenses), (h) (harm to vulnerable victim); M- (a) (no prior discipline), (c) (restitution or rectified consequences), (d) (cooperative attitude), (e) (good character), (g) (chemical/mental illness)

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: NO	Public Official: NO	Prior Discipline: NO	
Sanction: Indefinite suspension			

Martorana, Geauga Cty. Bar Assn. v.
[137 Ohio St.3d 19, 2013-Ohio-1686](#). Decided 4/30/2013.

OVERVIEW: Respondent charged a clearly excessive fee in five client matters.

PROCEDURE: The parties submitted a consent-to-discipline agreement that included stipulated findings of fact and misconduct. The Board recommended that the agreement be accepted, but the Court rejected it and remanded the matter back to the Board for further proceedings. At the hearing, the parties again stipulated to facts and misconduct.

FINDINGS: Respondent, doing business as Martorana Legal Services, L.L.C. (“MLS”), provided mortgage-related services for homeowners facing foreclosure. Respondent would request that her clients enter into a written fee agreement requiring an up-front flat fee deemed earned in full by MLS at the time of payment. The agreement also stated that the client was entitled to a full refund if MLS declined representation and failed to complete legal work beyond the initial review. In each of the five matters, the client contacted MLS for mortgage-related assistance, executed Respondent’s written fee agreement, and paid a flat fee ranging from \$1,695 to \$2,300. However, for various reasons, MLS was unable to complete the requested work. In each matter, the client either requested a refund or expressed dissatisfaction with MLS. In three of the cases, Respondent refused to refund any of the client’s money, and in the other two matters, Respondent refunded less than one-third of the flat fee. After Relator filed its complaint, Respondent made full restitution to all five clients.

SANCTION: The Board agreed with the panel’s findings of fact and misconduct, except it concluded that Respondent’s misconduct warranted a public reprimand. The Court adopted the Board’s recommendations and imposed a public reprimand.

CASE AUTHORITY FOR SANCTION: *Smith* (2009); *Randolph* (1999); *Seibel* (2012); *Rucker* (2012)

DISSENT: Justice Kennedy dissented and would have imposed a six-month stayed suspension.

Rules Violated: Prof.Cond.R. [1.5\(a\)](#)

Aggravation/ Mitigation: **A-** [\(d\)](#) (multiple offenses); **M-** [\(a\)](#) (no prior discipline), [\(c\)](#) (restitution or rectified consequences), [\(d\)](#) (cooperative attitude)

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: YES	Public Official: NO	Prior Discipline: NO	
Sanction: Public Reprimand			

[Table of Cases](#)

[Index](#)

McGowan, Columbus Bar Assn. v.

135 Ohio St.3d 368, 2013-Ohio-1470. Decided 4/16/2013.

OVERVIEW: Respondent engaged in illegal conduct involving dishonesty, fraud, deceit, or misrepresentation, neglected two client matters, failed to deliver funds that a client was entitled to receive, failed to reasonably communicate with a client, failed to advise a client that he did not carry malpractice insurance, and failed to cooperate in the disciplinary proceedings until Relator filed its complaint. Respondent was suspended on an interim basis following his felony convictions.

FINDINGS: Respondent pleaded guilty to a felony count of conspiracy to commit money laundering and a separate count of willful failure to report the receipt of more than \$10,000 in the course of his trade or business as an attorney. In addition, Respondent was retained to represent a client in a charge of driving while intoxicated. The client paid Respondent \$900 toward his quoted fee of \$1,500. Respondent appeared at the client's arraignment, but erroneously assumed that his appearance would cause him to be entered as counsel of record. Because he was not listed as counsel of record, Respondent did not receive hearing notices from the court and failed to appear at two hearings. Respondent refunded one third of his client's payment, but did not respond to the investigation or a notice of arbitration of fee dispute. Respondent was also retained to represent a client in a personal-injury matter and executed a contingent-fee agreement. Respondent failed to advise the client that he did not carry professional liability insurance and did not have his client sign a written acknowledgement of that fact. Respondent communicated only sporadically and failed to keep his client informed of the status of the case, and did not respond to Relator's attempts to investigate this client matter.

SANCTION: The parties submitted stipulations of fact, misconduct, and aggravating and mitigating factors and jointly waived a formal hearing. The Board adopted the stipulations of fact and misconduct and recommended that Respondent be indefinitely suspended from the practice of law with credit for time served under his interim felony suspension and conditions upon petitioning for reinstatement. The Court imposed the recommended sanction of an indefinite suspension, but with no credit for time served under the interim felony suspension. The Court also ordered that Respondent shall not be permitted to petition for reinstatement until he has completed the term of federal supervised release, made restitution of unearned fees to his clients, reimbursed the Clients' Security Fund for any claims paid to his clients, and paid the costs necessary to prosecute this action.

CASE AUTHORITY FOR SANCTION: *Hunter* (2011)

DISSENT: Justices Pfeifer, O'Donnell, and O'Neill dissented and would have granted Respondent credit for time served under his interim felony suspension.

Rules Violated: Prof.Cond.R. 1.3, 1.4(c), 1.15(d), 8.1(b), 8.4(b), 8.4(c), 8.4(h); DR 1-104, 6-101(A)(3); Gov.Bar R. V(4)(G)

Aggravation/ Mitigation: A- (b) (dishonest or selfish motive), (c) (pattern of misconduct), (d) (multiple offenses), (e) (lack of cooperation), (h) (harm to vulnerable victim); M- (a) (no prior discipline), (f) (other penalties/sanctions)

Court Modified Sanction: YES		Criminal Conduct: YES	
Procedure/ Process Issues: NO	Public Official: NO	Prior Discipline: NO	
Sanction: Indefinite suspension			

Oberholtzer, Disciplinary Counsel v.

136 Ohio St.3d 314, 2013-Ohio-3706. Decided 9/4/2013.

OVERVIEW: Respondent failed to act with reasonable diligence, keep the client reasonably informed, deposit advanced legal fees and expenses into a client trust account, comply with reasonable requests for information from the client, and engaged in conduct that is prejudicial to the administration of justice and adversely reflected on his fitness to practice law. Respondent also failed to respond to a demand for information by a disciplinary authority and neglected to assist in the disciplinary investigation.

FINDINGS: Respondent's clients retained him for representation in a custody matter involving their granddaughter. At that time, Respondent received a \$2,500 retainer. Respondent negotiated the check, but did not deposit it into his trust account. Respondent prepared a complaint for legal custody and a request for oral hearing, two affidavits, and a declaration. Respondent sent the documents to the clients for signatures and the clients returned the signed documents along with a check for court costs. Respondent did not file the documents. The client telephoned Respondent on numerous occasions, leaving messages. Respondent generally returned their calls, but was occasionally slow to do so. Over one year later, and after the grievance was filed, Respondent sent another copy of the documents the clients had originally signed. The clients again executed and returned the documents to Respondent, but he did not file anything until 16 months later when he filed a motion to terminate or modify the guardianship. The court dismissed the motion to terminate the guardianship for failure to serve the defendant, the child's father. Respondent sought to vacate the court's order and requested leave to serve the defendant by publication. The motions were still pending at the time of the panel's hearing. Respondent was also retained by a client to represent her in a child-support dispute. The client paid Respondent a \$1,000 retainer. Respondent appeared at a preliminary hearing on behalf of the client, during which the court scheduled an evidentiary hearing. Respondent failed to appear for the hearing. The next day, the client emailed Respondent expressing concern about his failure to appear, but Respondent never replied. Respondent sent the client a letter of apology and a check refunding her fee days before the panel hearing.

SANCTION: The parties stipulated to the charged misconduct, findings of fact, and recommended sanction of a one-year suspension, stayed on conditions. Respondent agreed to serve a 12-month period of monitored probation, complete a three-hour continuing legal education course on law-office management within 90 days, and commit no further misconduct. The Board adopted the stipulations and the Court imposed the recommended sanction. In its discussion of sanction, the Court noted Respondent's poor health at the time of the misconduct, his efforts to improve office operations, and his apologies to the clients involved.

CASE AUTHORITY FOR SANCTION: *Shuler* (2011); *Norton* (2007); *Brown* (2010); *Farah* (2010)

Rules Violated: Prof.Cond.R. 1.3, 1.4(a)(3), 1.4(a)(4), 1.15(c), 8.1(b), 8.4(d), 8.4(h); Gov.Bar R. V(4)(G)

Aggravation/ Mitigation: A- (c) (pattern of misconduct), (d) (multiple offenses), (e) (lack of cooperation); M- (a) (no prior discipline), (b) (no dishonest or selfish motive), (d) (cooperative attitude)

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: NO	Public Official: NO	Prior Discipline: NO	
Sanction: One-year suspension, fully stayed on conditions			

O'Malley, Disciplinary Counsel v.
 137 Ohio St.3d 161, 2013-Ohio-4566. Decided 10/17/2013.

OVERVIEW: Respondent engaged in conduct that adversely reflected on his fitness to practice law and his honesty and trustworthiness, that involved dishonesty, fraud, deceit, or misrepresentation, and was prejudicial to the administration of justice. Respondent also sought to influence a judicial officer and communicated ex parte with a judicial officer as to the merits of a case. Respondent was found guilty of making a materially false statement and misprision of a felony and the Court issued an interim felony suspension.

FINDINGS: The county auditor, asked Respondent to assist him in responding to a public-records request submitted by the Cleveland Plain Dealer, which was conducting an investigation of patronage at the auditor's office. The auditor asked Respondent to look at the personnel file of an employee of the auditor's office. Respondent reviewed the personnel file and found that it contained so little information that a determination about the employee's qualifications for the position could not have been made on the basis of the application. Respondent suggested that the employee "complete" his application. He pled guilty to and was convicted of misprision of a felony relating to the employee's hiring and the changing of the employment application. Respondent also represented two clients in a multiparty foreclosure action. Respondent's efforts to settle the case were hindered by the lack of ruling on stale motions for summary judgment. Respondent asked the county auditor, who personally knew the trial judge, to tell the judge to deny the motions. The judge denied the motions as instructed by the auditor and Respondent told the auditor "you took care of that, he [the judge] just told me... [T]hat's huge. I should be able to settle that thing. It's a nightmare." Respondent eventually settled the litigation. When interviewed by the FBI, Respondent told them he had not asked the auditor for any help on his cases and that his private law practice was limited to representing indigent criminal defendants.

SANCTION: The parties stipulated to the charged misconduct, findings of fact, and sanction of an indefinite suspension, with credit for time served under the interim suspension. The Board adopted the stipulations and recommended sanction. The Court instead imposed an indefinite suspension with no credit for time served because Respondent's conduct undermined the integrity of the judicial system.

CASE AUTHORITY FOR SANCTION: *Johnson* (2002); *Kellogg* (2010); *Rolla* (2002)

DISSENT: Justice O'Neill dissented and would have granted Respondent credit for time served under his interim felony suspension.

Rules Violated: Prof.Cond.R. 3.5(a)(1), 3.5(a)(3), 8.4(b), 8.4(c), 8.4(d), 8.4(h)

Aggravation/ Mitigation: A- (b) (dishonest or selfish motive), (d) (multiple offenses); M- (a) (no prior discipline), (d) (cooperative attitude), (e) (good character), (f) (other penalties/sanctions)

Court Modified Sanction: YES		Criminal Conduct: YES	
Procedure/ Process Issues: NO	Public Official: NO	Prior Discipline: NO	
Sanction: Indefinite suspension with no credit for time served			

Pryatel, Cleveland Metro. Bar Assn. v.

135 Ohio St.3d 410, 2013-Ohio-1537. Decided 4/24/2013.

OVERVIEW: Respondent knowingly made a false statement of fact or law to a tribunal, failed to deposit legal fees and expenses into a client trust account, failed to provide competent representation, failed to keep the client reasonably informed and comply with reasonable requests for information, failed to act with reasonable diligence, charged an excessive fee, and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation.

PROCEDURE: Respondent failed to answer the complaint and Relator filed a motion for default. A master commissioner was appointed, who made findings of fact and conclusions of law, and recommended disbarment. The Board adopted the recommendation of disbarment. While the Board's report was pending before the Court, Respondent filed motions to remand for a hearing before the Board and to supplement the record, arguing that previously diagnosed psychological issues interfered with his capacity to defend himself against the disciplinary charges. The Court remanded the case for a hearing, but limited the Board's review on remand to consideration of mitigation evidence.

FINDINGS: Respondent was retained by a client to represent him in several criminal matters, including a motion for judicial release. Respondent's client informed him that he was permanently disabled and unable to secure employment upon his release from prison. Respondent wrote in the motion for judicial release that "Defendant has arranged for employment upon his release." The client claimed that Respondent misrepresented the client's ability and intent to secure employment upon his release from prison. While Respondent's client was in prison, he received a \$50,000 workers' compensation settlement check. Respondent deposited the check into his personal bank account, rather than a client trust account. Over the course of the representation, Respondent deducted over \$29,000 in legal fees, including \$7,000 for responding to 70 letters from his client. He ultimately pled guilty to attempted theft relating to the use of the settlement funds. In another client matter, Respondent was retained to seal criminal records. The client's father paid Respondent \$2,025 to settle an outstanding restitution order, satisfy court costs, and cover Respondent's fees. Respondent, however, never filed the motion to seal his client's records, nor did he settle the restitution order or pay the court costs. Respondent also failed to respond to the client's repeated attempts to contact him. As a result of Respondent's neglect, the client claimed that he lost his eligibility to seal his records.

SANCTION: On remand as to mitigation, the Board found the absence of a disciplinary record, good character, the imposition of other penalties, and other interim rehabilitation. The Board also found that Respondent failed to establish the absence of a dishonest or selfish motive and a mental disorder that contributed to the misconduct. The Court adopted the Board's findings of fact and conclusions of law, and recommended sanction of an indefinite suspension, with conditions on reinstatement. The conditions included submission of proof that Respondent has complied with the terms of his OLAP contract, has obtained treatment from a psychiatrist for his mental disorders, fulfilled all follow-up care and reporting requirements imposed by OLAP and his treating psychiatrist, and paid the costs of the proceedings.

CASE AUTHORITY FOR SANCTION: *Kafantaris* (2009); *Dixon* (2002); *Bandman* (2010); *Dietz* (2006); *Pritchard* (2012); *Van Sickle* (2011)

Rules Violated: Prof.Cond.R. 1.1, 1.3, 1.4(a)(3), 1.4(a)(4), 1.5(a), 3.3(a)(1), 1.15(c), 8.4(c)

Aggravation/ Mitigation: A- (d) (multiple offenses), (e) (lack of cooperation), (g) (refusal to acknowledge wrongdoing), (i) (no restitution); M- (a) (no prior discipline), (e) (good character), (f) (other penalties/sanctions), (h) (other rehabilitation)

Court Modified Sanction: NO		Criminal Conduct: YES	
Procedure/ Process Issues: YES	Public Official: NO	Prior Discipline: NO	
Sanction: Indefinite suspension			

Siehl, Dayton Bar Assn. v.
[135 Ohio St.3d 261, 2013-Ohio-735](#). Decided 3/6/2013.

OVERVIEW: Respondent failed to cooperate with the disciplinary investigation. Respondent was under an indefinite suspension at the time of this case and had a previous attorney registration suspension.

PROCEDURE: Respondent failed to answer the complaint. A master commissioner made findings of fact and conclusions of law, and recommended permanent disbarment. The Board adopted the master commissioner's findings of fact and misconduct, but recommended that Respondent receive an indefinite suspension, to run consecutively with the indefinite suspension the Court had already imposed.

FINDINGS: Relator attempted to contact Respondent at three separate addresses, including two former addresses and one current address. The mail sent to the former addresses was returned, but the mail sent to the current address was not. Knowing that Respondent was a member of the Eaton City Council, Relator left messages with that entity, but received no response. Respondent did not respond to a request for him to appear before Relator to explain his failure to cooperate.

SANCTION: The Board recommended an indefinite suspension to run consecutively to the indefinite suspension the Court previously imposed. The Court agreed with the Board's recommended sanction.

CASE AUTHORITY FOR SANCTION: None cited.

Rules Violated: Prof.Cond.R. [8.1\(b\)](#)

Aggravation/ Mitigation: A- [\(a\)](#) (prior discipline), [\(e\)](#) (lack of cooperation); M- NONE

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: YES	Public Official: YES	Prior Discipline: YES	
Sanction: Indefinite suspension			

[Table of Cases](#)

[Index](#)

Snyder, Geauga Cty. Bar Assn. v.
[136 Ohio St.3d 320, 2013-Ohio-3688](#). Decided 9/4/2013.

OVERVIEW: Respondent committed an advertising violation, charged a fee denominated as “earned upon receipt” or “nonrefundable” without advising the client in writing that the client may be entitled to a refund if the representation is not completed, and did not appropriately divide fees with lawyers in other firms.

FINDINGS: Respondent was doing business as Snyder Professional Law Services (SPLS), promoting SPLS as a foreclosure-defense firm with “of counsel” relationships with out-of-state attorneys. SPLS’s office letterhead indicated these “of counsel” relationships. Respondent was sharing office space with Performing Investment Corporation (PIC), a business that provided paralegal and support services for Respondent, including interacting with clients on the phone, compiling information, and contacting lenders regarding mitigation options. PIC employed a former Ohio attorney who had resigned from the practice of law. PIC contracted with a marketing firm that assisted Respondent in attracting potential clients. Solicitation letters were sent to homeowners who were behind on their mortgage payments. Although the envelopes showed the enclosed letter was an advertisement, the letters themselves did not include in their text the capitalized recital “ADVERTISEMENT MATERIAL” or “ADVERTISEMENT ONLY.” Respondent would enter into a fee agreement with clients that provided for a flat fee that was deemed earned in full upon the opening of the file and stated that no refunds would be made. The cost to the clients for representation ranged from \$1,595 to \$2,295. The contract fee amounts for out-of-state cases would range from \$200 to \$500, depending on the state. Out-of-state cases were sent to the attorney outside of Ohio who was listed as “of counsel” for that particular state. Respondent generally retained \$300 for each client, with the balance of the client’s payment going to PIC for its services.

SANCTION: The parties submitted detailed stipulations, but some of the stipulations indicated that the parties disagreed on certain matters. The Board adopted the panel’s findings of fact, conclusions of law, and recommendation of a public reprimand. The Court imposed the recommended sanction.

CASE AUTHORITY FOR SANCTION: *Freedman* (2011); *Seibel* (2012); *Johnson* (2009)

Rules Violated: Prof.Cond.R. [1.5\(d\)\(3\)](#), [1.5\(e\)](#), [7.3\(c\)\(3\)](#)

Aggravation/ Mitigation: **A-** (c) (pattern of misconduct), (d) (multiple offenses); **M-** (a) (no prior discipline), (b) (no dishonest or selfish motive), (c) (restitution or rectified consequences), (d) (cooperative attitude), (e) (good character)

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: NO	Public Official: NO	Prior Discipline: NO	
Sanction: Public Reprimand			

Stewart, Toledo Bar Assn. v.
[135 Ohio St.3d 316, 2013-Ohio-795](#). Decided 3/12/2013.

OVERVIEW: Respondent neglected to provide competent representation, failed to act with reasonable diligence, failed to keep clients reasonably informed, failed to hold property of clients in an interest-bearing trust account, failed to deliver funds, failed to inform the clients that he did not maintain professional liability insurance, and failed to respond to demands for information from a disciplinary authority.

FINDINGS: Respondent was found to have mishandled four separate client matters. The first matter was a negligence case involving a pharmacy error. Respondent failed to respond to discovery requests, waited almost one year to respond to requests for information regarding apportionment of the settlement, lost his client's settlement check but cashed the check for his fee, and made no effort to have the settlement check reissued. In the second matter, Respondent filed a complaint to foreclose on a lien, ignored discovery demands, and did not respond to a motion for summary judgment, causing a \$43,000 judgment against the client on a counterclaim. The only violation proven in the third client matter was a failure to inform the client of the lack of professional liability insurance. The fourth matter was a shared custody case in which Respondent did not comply with the court's instructions to modify the shared parenting plan. Respondent did not answer Relator's request for information concerning these matters.

SANCTION: The Board adopted the panel's findings of fact, conclusions of law, and recommended sanction of a two-year suspension, with one year stayed on conditions. The Court imposed the recommended sanction, with reinstatement conditioned on Respondent engaging in no further misconduct, completing six hours of CLE in law-office management and practice by a sole practitioner, and serving one year of monitored probation upon reinstatement.

CASE AUTHORITY FOR SANCTION: *Davis* (2009); *Gregory* (2012); *Woodley* (2012)

Rules Violated: Prof.Cond.R. [1.1](#), [1.3](#), [1.4\(a\)\(3\)](#), [1.4\(c\)](#), [1.15\(a\)](#), [1.15\(d\)](#), [1.16\(d\)](#), [8.1\(b\)](#); DR 6-101(A)(1), 6-101(A)(3)

Aggravation/ Mitigation: A- [\(c\)](#) (pattern of misconduct), [\(d\)](#) (multiple offenses), [\(e\)](#) (lack of cooperation), [\(g\)](#) (refusal to acknowledge wrongdoing); M- [\(a\)](#) (no prior discipline), [\(b\)](#) (no dishonest or selfish motive)

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: NO	Public Official: NO	Prior Discipline: NO	
Sanction: Two-year suspension, with one year stayed			

[Table of Cases](#)

[Index](#)

Talikka, Disciplinary Counsel v.
[135 Ohio St.3d 323, 2013-Ohio-1012](#). Decided 3/20/2013.

OVERVIEW: Respondent committed 38 violations of 12 Rules of Professional Conduct in his handling of eight separate client matters.

FINDINGS: This case was fully stipulated, and Respondent waived his right to a hearing. Respondent mishandled three client matters by failing to file an appellate brief on behalf of one client, failing to respond to a motion to dismiss and a motion for judgment on the pleadings in a second client's case, and failed to file a motion for judicial release for a third client. Respondent failed to inform two of those clients that their cases had been dismissed, and failed to return the unearned portion of their retainers when they terminated his representation. Respondent also failed to respond to requests for information from his client in one matter. Respondent further failed to safeguard \$10,000 belonging to a client in his client trust account. He also neglected to maintain records of the funds he should have been holding in his client trust account for five clients and did not properly administer those funds. In three personal injury matters, Respondent failed to have his clients sign closing statements.

SANCTION: The panel recommended a two-year suspension, with one year stayed on conditions, and the Board recommended an indefinite suspension. Respondent filed objections, the Court overruled the Board's recommendation, and ordered a two-year suspension, with the second year stayed on the conditions that Respondent pay restitution and serve one year of monitored probation upon reinstatement.

CASE AUTHORITY FOR SANCTION: *Claflin* (2005); *Agopian* (2006)

DISSENT: In a 19-page dissenting opinion, Chief Justice O'Connor stated that given the nature of Respondent's misconduct, which affected several vulnerable victims, his failure to refund an unearned portion of his clients' retainers when they terminated his representation, failure to safeguard \$10,000 in client funds, and failure to promptly distribute all of the funds that his clients were entitled to receive, the Board's recommendation of an indefinite suspension properly reflected the Court's obligation to protect the public. Justices Lanzinger and French joined in the dissent.

Rules Violated: Prof.Cond.R. [1.3](#), [1.4\(a\)\(3\)](#), [1.4\(a\)\(4\)](#), [1.5\(c\)\(2\)](#), [1.15\(a\)](#), [1.15 \(a\)\(2\)](#), [1.15\(a\)\(5\)](#), [1.15\(d\)](#), [1.16\(e\)](#), [8.4\(c\)](#), [8.4\(d\)](#), [8.4\(h\)](#)

Aggravation/ Mitigation: **A-** [\(b\)](#) (dishonest or selfish motive), [\(c\)](#) (pattern of misconduct), [\(d\)](#) (multiple offenses), [\(h\)](#) (harm to vulnerable victim), [\(i\)](#) (no restitution); **M-** [\(a\)](#) (no prior discipline), [\(e\)](#) (good character)

Court Modified Sanction: YES		Criminal Conduct: NO	
Procedure/ Process Issues: NO	Public Official: NO	Prior Discipline: NO	
Sanction: Two-year suspension, with one year stayed on conditions			

Taubman, Disciplinary Counsel v.
[136 Ohio St.3d 312, 2013-Ohio-3704](#). Decided 9/3/2013.

OVERVIEW: Respondent failed to preserve the identity of client funds and property and engaged in conduct that adversely reflected on his fitness to practice law.

PROCEDURE: The parties submitted a consent-to-discipline agreement that included stipulated findings of fact and misconduct. The Board recommended that the agreement be accepted, but the Court remanded the matter back to the Board because Respondent's affidavit did not conform to the requirements of BCGD Proc. Reg. 11(B). Upon submission of Respondent's supplemental affidavit, the Board found that the consent-to-discipline agreement met the requirements of the Court's remand order and again recommended that the agreement be accepted.

FINDINGS: Respondent withdrew settlement proceeds held in a client guardianship account for his personal use.

SANCTION: The Court adopted the parties' consent-to-discipline agreement and issued a six-month suspension, with the entire suspension stayed, on the condition that Respondent commits no further misconduct.

CASE AUTHORITY FOR SANCTION: *Vivyan* (2010)

Rules Violated: Prof.Cond.R. [1.15\(a\)](#), [8.4\(h\)](#)

Aggravation/ Mitigation: A- None; M- [\(a\)](#) (no prior discipline), [\(c\)](#) (restitution or rectified consequences), [\(d\)](#) (cooperative attitude), [\(e\)](#) (good character)

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: YES	Public Official: NO	Prior Discipline: NO	
Sanction: Six-month suspension, fully stayed on condition			

[Table of Cases](#)

[Index](#)

Terbeek, Disciplinary Counsel v.
[135 Ohio St.3d 458, 2013-Ohio-1912](#). Decided 5/16/2013.

OVERVIEW: Respondent failed to hold client funds in a trust account and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation, conduct that adversely reflected on his fitness to practice law, and conduct that was prejudicial to the administration of justice.

PROCEDURE: Respondent failed to answer the complaint. A master commissioner made findings of fact and conclusions of law, and recommended permanent disbarment. The Board adopted the master commissioner's findings of fact, conclusions of law, and recommended sanction.

FINDINGS: Respondent misappropriated \$15,000 that he was obligated to hold in escrow for his client, who was purchasing a business. Respondent used the funds for personal purposes and the seller of the business secured a judgment against Respondent for the \$15,000 in misappropriated funds.

SANCTION: The Court adopted the Board's findings and conclusions and disbarred Respondent.

CASE AUTHORITY FOR SANCTION: *Dixon* (2002); *Saunders* (2012); *Freeman* (2011); *Zumstein* (2001)

Rules Violated: Prof.Cond.R. [1.15](#), [8.4\(c\)](#), [8.4\(d\)](#), [8.4\(h\)](#); DR 1-102(A)(4), 1-102(A)(6), 9-102(A)(2)

Aggravation/ Mitigation: A- [\(b\)](#) (dishonest or selfish motive), [\(e\)](#) (lack of cooperation), [\(i\)](#) (no restitution); M- [\(a\)](#) (no prior discipline)

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: YES	Public Official: NO	Prior Discipline: NO	
Sanction: Disbarment			

[Table of Cases](#)

[Index](#)

Tomer, Akron Bar Assn. v.
[138 Ohio St.3d 302, 2013-Ohio-5494](#). Decided 12/19/2013.

OVERVIEW: Respondent failed to act with reasonable diligence and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation. Respondent also failed to consult with a client about the means by which the client’s objectives were to be accomplished, obtain a signed acknowledgment from the client that she did not maintain malpractice insurance, hold client funds in a trust account, and cooperate with the disciplinary investigation.

FINDINGS: Respondent was retained to seek modification of a child-custody order, but after three months, Respondent had not filed a notice of appearance or any motions on the client’s behalf. Respondent also failed to return the client’s phone calls and deposited the client’s retainer into her business account rather than in an IOLTA. Respondent failed to refund the client’s retainer until after Relator had filed its complaint. Respondent was also retained and paid \$1,000 to represent a client in a divorce action. After working on the matter, Respondent determined that she owed the client a \$370 refund. Respondent sent the check to the wrong address and later promised to reissue the check, but instead she withdrew the funds from her IOLTA. Respondent failed to send the client’s check until Relator filed its complaint. Regarding a custody case that Respondent neglected, she provided Relator with two letters that she claimed to have sent to her client requesting further information. Respondent told Relator that because the client did not respond to her letters, she discontinued working on his case. After Relator secured metadata from Respondent’s electronic files, however, Respondent changed her story and admitted that she had never sent the client the letters and that she created and backdated the letters after receiving a copy of the grievance. Respondent also failed to properly maintain records of her IOLTA.

SANCTION: The parties entered stipulations of fact and misconduct. The panel accepted the parties’ stipulations and recommended sanction of a six-month stayed suspension. The Board, however, recommended a two-year suspension, with the entire suspension stayed on condition. Citing the panel’s finding of “exceptionally strong mitigation testimony,” the Court imposed the Board’s recommended sanction with conditions that aim to improve the organization and recordkeeping of Respondent’s law practice (including CLE and monitored probation).

CASE AUTHORITY FOR SANCTION: *DeLoach* (2011)

Rules Violated: Prof.Cond.R. [1.3](#), [1.4\(a\)\(2\)](#), [1.4\(c\)](#), [1.15](#), [1.15\(a\)\(2\)](#), [1.15\(a\)\(5\)](#), [8.4\(c\)](#); Gov.Bar R. [V\(4\)\(G\)](#)

Aggravation/ Mitigation: A- [\(d\)](#) (multiple offenses), [\(f\)](#) (false or deceptive practices during investigation); M- [\(a\)](#) (no prior discipline), [\(b\)](#) (no dishonest or selfish motive), [\(e\)](#) (good character)

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: NO	Public Official: NO	Prior Discipline: NO	
Sanction: Two-year suspension, with entire suspension stayed on conditions			

Tomson, Disciplinary Counsel v.
[136 Ohio St.3d 71, 2013-Ohio-2154](#). Decided 6/4/2013.

OVERVIEW: Respondent engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation, conduct that adversely reflected on his fitness to practice law, and conduct that was prejudicial to the administration of justice. He also failed to act with reasonable diligence, failed to seek the lawful objectives of the client, failed to carry out a contract of employment, collected an excessive fee, neglected an entrusted legal matter, and failed to cooperate with the disciplinary investigation.

PROCEDURE: Respondent failed to answer the complaint. A master commissioner made findings of fact and conclusions of law, and recommended an indefinite suspension with restitution. The Board adopted the master commissioner's findings of fact and conclusions of law, but recommended permanent disbarment with restitution to the clients.

FINDINGS: Respondent agreed to pursue post conviction relief on behalf of two separate clients. Respondent received more than \$13,000 to represent the clients and he failed to perform any of the work. Respondent repeatedly told his clients that he was "confident" that he would have something to them within a definite time period, but he never met his projected completion dates. Respondent claimed to have performed substantial legal research on behalf of these clients. However, after seven years, he had filed only a seven-page application to reopen one client's appeal and had filed nothing in the other client's case.

SANCTION: The Court imposed permanent disbarment and ordered Respondent to make restitution of \$8,000 to one client and \$5,200 to the other client.

CASE AUTHORITY FOR SANCTION: *Marshall* (2009); *Hildebrand* (2010); *Weaver* (2004)

Rules Violated: Prof.Cond.R. [1.2\(a\)](#), [1.3](#), [1.5\(a\)](#), [8.1\(b\)](#), [8.4\(c\)](#), [8.4\(d\)](#), [8.4\(h\)](#); DR [1-102\(A\)\(4\)](#), [1-102\(A\)\(5\)](#), [1-102\(A\)\(6\)](#), [2-106\(A\)](#), [6-101\(A\)\(3\)](#), [7-101\(A\)\(1\)](#), [7-101\(A\)\(2\)](#); Gov.Bar R. [V\(4\)\(G\)](#)

Aggravation/ Mitigation: A- [\(b\)](#) (dishonest or selfish motive), [\(d\)](#) (multiple offenses), [\(e\)](#) (lack of cooperation), [\(g\)](#) (refusal to acknowledge wrongdoing), [\(i\)](#) (no restitution); M- [\(a\)](#) (no prior discipline)

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: YES	Public Official: NO	Prior Discipline: NO	
Sanction: Disbarment			

Underwood, Disciplinary Counsel v.
 136 Ohio St.3d 220, 2013-Ohio-3118. Decided 7/18/2013.

OVERVIEW: Respondent failed to maintain client trust account records, failed to deposit advanced fees and expenses into a trust account, engaged in conduct that is prejudicial to the administration of justice, and conduct that adversely reflected on her fitness to practice law.

PROCEDURE: The parties submitted a consent-to-discipline agreement that included stipulated findings of fact and misconduct and an agreed sanction of a one-year suspension stayed in its entirety upon conditions. The Board recommended that the agreement be accepted.

FINDINGS: Respondent's misconduct involved one client matter. Respondent failed to maintain a record of her client trust account, failed to deposit fees and expensed paid in advance into her trust account, failed to refund any unearned fees to her client upon Respondent's withdrawal from representation, and disobeyed a court order.

SANCTION: The Court adopted the parties' consent-to-discipline agreement and issued a one-year suspension, stayed in its entirety, upon the conditions that Respondent engage in no further misconduct and that she complete at least six hours of continuing legal education in law-office management within six months of the Court's order.

CASE AUTHORITY FOR SANCTION: None cited.

Rules Violated: Prof.Cond.R. 1.15(a), 1.15(c), 8.4(d), 8.4(h)

Aggravation/ Mitigation: **A-** (d) (multiple offenses); **M-** (a) (no prior discipline), (c) (restitution or rectified consequences), (d) (cooperative attitude), (f) (other penalties/sanctions)

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: YES	Public Official: NO	Prior Discipline: NO	
Sanction: One-year suspension, fully stayed on conditions			

[Table of Cases](#)

[Index](#)

Wagner, Mahoning Cty. Bar Assn. v.
[137 Ohio St.3d 545, 2013-Ohio-5087](#). Decided 11/21/2013.

OVERVIEW: Respondent engaged in conduct that adversely reflected on his honesty and trustworthiness and conduct involving dishonesty, fraud, deceit, or misrepresentation. Respondent pled guilty to conspiracy to commit wire fraud and the Court issued an interim felony suspension.

FINDINGS: Respondent was the title agent for seven real estate transactions that later were determined to be part of a fraudulent scheme. Respondent prepared settlement statements for the seven properties, each of which had straw buyers/investors. The transactions involved inflated property valuations and large distributions concealed from lenders. Respondent prepared the settlement statements based on information furnished to him and he did not question the accuracy of the information because the property appraisals had been performed by appraisers who were on the lenders' approved lists. For three of the seven transactions, Respondent did not understand that the information provided to him was false. Respondent realized that the structure of the transactions was suspect, but for the next four transactions, Respondent did not question the accuracy of the settlement information or report his suspicions. Respondent was paid no more than the fee he typically would have charged and collected for this kind of transaction. For his involvement in the transactions, Respondent was convicted of conspiracy to commit wire fraud, sentenced to three years probation, and ordered to pay, jointly and severally with the other defendants, \$147,620 in restitution.

SANCTION: The parties stipulated to the charged misconduct, findings of fact, and recommended sanction of an 18-month suspension with credit for time served under the interim suspension. The panel recommended that Respondent be indefinitely suspended with credit for the interim suspension. The Board modified the findings of fact and conclusions of law to dismiss a stipulated violation of Rule 8.4(d), but adopted the recommended sanction. The Court imposed the indefinite suspension with credit for time served under the interim suspension.

CASE AUTHORITY FOR SANCTION: *Hunter* (2011); *Smith* (2011), *Kellogg* (2010), *Bennett* (2010)

CONCUR: Chief Justice O'Connor and Justices O'Donnell and Kennedy concurred with the sanction but would not give credit for time served under the interim suspension.

Rules Violated: Prof.Cond.R. [8.4\(b\)](#), [8.4\(c\)](#)

Aggravation/ Mitigation: **A-** [\(d\)](#) (multiple offenses); **M-** [\(a\)](#) (no prior discipline), [\(b\)](#) (no dishonest or selfish motive), [\(d\)](#) (cooperative attitude), [\(e\)](#) (good character), [\(f\)](#) (other penalties/sanctions)

Court Modified Sanction: NO		Criminal Conduct: YES	
Procedure/ Process Issues: NO	Public Official: NO	Prior Discipline: NO	
Sanction: Indefinite suspension with credit for time served under the interim suspension			

White, Akron Bar Assn. v.
[136 Ohio St.3d 51, 2013-Ohio-2153](#). Decided 5/30/2013.

OVERVIEW: Respondent failed to properly account for fees generated in representing one client.

FINDINGS: Respondent's client, through a local lawyer-referral service, sought representation regarding a dispute over various repairs made to a previously-owned automobile that had been purchased from a local dealer. Respondent's client paid him a retainer of \$450 to file suit, which Respondent deposited into his firm operating account rather than his client trust account. The client faxed Respondent certain documents regarding the purchase showing that the client was not the actual buyer, and that he had no ownership interest in, or title to, the automobile in question. The documents also showed that the vehicle was purchased "as is." Respondent filed a complaint in county court against a dealer other than the one that was named in the documents as the seller of the vehicle. Respondent was unable to attend a pretrial conference due to a scheduling conflict, and the client attended the conference alone after insisting the matter not be delayed and informing Respondent that he had been to court "a number of times." Respondent eventually dismissed the complaint without prejudice.

SANCTION: The parties initially submitted a consent-to-discipline agreement, but the panel rejected the agreement. The parties submitted stipulations and recommended that Respondent receive a public reprimand. The Board adopted the panel's findings of fact and conclusions of law, and recommends a public reprimand, which the Court imposed.

CASE AUTHORITY FOR SANCTION: *Rucker* (2012)

Rules Violated: Prof.Cond.R. [1.15\(c\)](#)

Aggravation/ Mitigation: A- NONE; M- [\(a\)](#) (no prior discipline), [\(d\)](#) (cooperative attitude)

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: NO	Public Official: NO	Prior Discipline: NO	
Sanction: Public Reprimand			

[Table of Cases](#)

[Index](#)

Wieczorek, Cincinnati Bar Assn. v.
[135 Ohio St.3d 434, 2013-Ohio-1743](#). Decided 5/1/2013.

OVERVIEW: Respondent engaged in an inappropriate relationship with a client.

PROCEDURE: The parties submitted a consent-to-discipline agreement that included stipulated findings of fact and misconduct and an agreed sanction of a public reprimand. The Board recommended that the agreement be accepted.

FINDINGS: Respondent engaged in consensual sexual activity with his client while representing her on a charge of driving while intoxicated.

SANCTION: The Court adopted the parties' consent-to-discipline agreement and issued a public reprimand.

CASE AUTHORITY FOR SANCTION: *Bartels* (2010); *Engler* (2006)

Rules Violated: Prof.Cond.R. [1.8\(j\)](#)

Aggravation/ Mitigation: A- NONE; M- [\(a\)](#) (no prior discipline), [\(d\)](#) (cooperative attitude)

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: YES	Public Official: NO	Prior Discipline: NO	
Sanction: Public Reprimand			

[Table of Cases](#)

[Index](#)

Williams, Stark Cty. Bar Assn. v.
[137 Ohio St.3d 112, 2013-Ohio-4006](#). Decided 9/24/2013.

OVERVIEW: Respondent was charged with multiple violations of professional misconduct in seven client matters, including misappropriation of client funds.

FINDINGS: During the pendency of this matter, Respondent pled guilty to felony counts of forgery and theft, stemming from some of the misconduct charged in the complaint. Respondent was sentenced to five years of community control, but she violated the community control conditions and was serving an eight-and-a-half-year prison sentence at the time of this case. In five separate client matters, Respondent engaged in a pattern of dishonesty, neglect, serious misuse of her IOLTA, and misappropriation of client funds to support her gambling addiction.

SANCTION: The Board adopted the panel’s findings of fact, misconduct, and recommended sanction of an indefinite suspension, with conditions for reinstatement. Relator objected, arguing that the aggravating factors and the Court’s precedent warranted permanent disbarment. The Court sustained Relator’s objection and disbarred Respondent. The Court agreed with the Board that Respondent’s mental disabilities (including gambling addiction) did not qualify as mitigating factors because Respondent had not sustained a period of successful treatment. The Court also found that the Board’s “heavy reliance” on Respondent’s character evidence was not justified and that such evidence did not outweigh Respondent’s misconduct and the Court’s established precedent.

CASE AUTHORITY FOR SANCTION: *Longino* (2011); *Wickerham* (2012); *Brickley* (2012); *Hoppel* (2011)

Rules Violated: Prof.Cond.R. [1.3](#), [1.5\(a\)](#), [1.5\(c\)](#), [1.8](#), [1.8\(e\)](#), [1.15\(a\)](#), [1.15\(c\)](#), [1.15\(d\)](#), [1.15\(e\)](#), [8.4\(b\)](#), [8.4\(c\)](#), [8.4\(d\)](#), [8.4\(h\)](#); Gov.Bar R. [V\(4\)\(G\)](#)

Aggravation/ Mitigation: **A-** [\(b\)](#) (dishonest or selfish motive), [\(c\)](#) (pattern of misconduct), [\(d\)](#) (multiple offenses), [\(e\)](#) (lack of cooperation), [\(f\)](#) (false or deceptive practices during investigation), [\(h\)](#) (harm to vulnerable victim), [\(i\)](#) (no restitution); **M-** [\(a\)](#) (no prior discipline), [\(e\)](#) (good character), [\(f\)](#) (other penalties/sanctions)

Court Modified Sanction: YES		Criminal Conduct: YES	
Procedure/ Process Issues: NO	Public Official: NO	Prior Discipline: NO	
Sanction: Disbarment			

[Table of Cases](#)

[Index](#)

Wrentmore, Cleveland Metro. Bar Assn. v.
[138 Ohio St.3d 16, 2013-Ohio-5041](#). Decided 11/21/2013.

OVERVIEW: Respondent was charged with multiple violations of professional misconduct relating to his handling of client funds and his failure to pay for five continuing legal education seminars he attended.

FINDINGS: Respondent represented clients in litigation, and occasionally courts would return excess funds that had been paid in cases on which he served as counsel. Respondent received four refund checks in amounts ranging from \$5 to \$2,644.74. In each case, Respondent either cashed the check and kept the cash or deposited a substantial portion of the check into his personal account and kept a portion in cash, thereby failing to notify and promptly deliver the funds to the person having a lawful interest in the funds. Respondent also attended five CLE seminars sponsored by the Ohio State Bar Association (“OSBA”). Regarding the first three seminars, Respondent appeared on the day of the seminar and told OSBA personnel that he had preregistered and prepaid for the seminar. Respondent testified that he believed that he had given his debit card number to OSBA staff for each seminar, however, after each one, the OSBA discovered that its records did not reflect that Respondent had preregistered or that he had paid. The OSBA sent Respondent a separate invoice for each of the three seminars. The three invoices totaled \$845 and stated that Respondent was a “walk-in no payment.” Respondent did not promptly respond to any of these invoices. Concerning the final two seminars, Respondent paid the seminar fee with a check from his personal checking account. Both checks, totaling \$544, were returned to the OSBA for insufficient funds. When apprised of the insufficient funds by the OSBA in a letter that requested payment, Respondent did not promptly respond. Despite not having paid for the five CLE seminars he attended, Respondent reported at least a portion of the CLE hours to the Court’s Commission on Continuing Legal Education in order to receive CLE credits. It was only after the OSBA requested that the Commission revoke the CLE hours for nonpayment, more than nine months after he was initially advised of his failure to pay for the first seminar, that Respondent paid for all five seminars with a bank check.

SANCTION: The Board adopted the panel’s findings of fact and misconduct and recommended sanction of an indefinite suspension. The Court imposed the indefinite suspension with reinstatement conditioned on proof of compliance with an OLAP contract.

CASE AUTHORITY FOR SANCTION: *McCauley* (2007); *Smithern* (2010); *Crossmock* (2006); *Yajko* (1997); *Gruttadaurio* (2013)

Rules Violated: Prof.Cond.R. [1.15\(a\)](#), [1.15\(d\)](#), [8.1 \(a\)](#), [8.4\(b\)](#), [8.4\(c\)](#), [8.4\(h\)](#)

Aggravation/ Mitigation: **A-** [\(b\)](#) (dishonest or selfish motive), [\(c\)](#) (pattern of misconduct), [\(d\)](#) (multiple offenses), [\(e\)](#) (lack of cooperation), [\(f\)](#) (false or deceptive practices during investigation), [\(g\)](#) (refusal to acknowledge wrongdoing), [\(i\)](#) (no restitution); **M-** [\(a\)](#) (no prior discipline), [\(c\)](#) (restitution or rectified consequences), [\(d\)](#) (cooperative attitude)

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: NO	Public Official: NO	Prior Discipline: NO	
Sanction: Indefinite suspension			

Zena, Mahoning Cty. Bar Assn. v.
 137 Ohio St.3d 456, 2013-Ohio-4585. Decided 10/23/2013.

OVERVIEW: Respondent failed to disclose that he lacked malpractice insurance, neglected an entrusted legal matter, failed to carry out a contract of employment, failed to act with reasonable diligence in representing a client, failed to promptly render a full accounting of funds or property to a client, and intentionally caused damage or prejudice to a client.

PROCEDURE: The Court remanded the case to the Board for a determination of whether any of the clients harmed by Respondent's conduct were entitled to restitution. On remand, the panel and Board recommended that Respondent pay \$3,000 in restitution to two clients.

FINDINGS: Respondent was contacted by a client to deal with some problems she was having with a general contractor and a subcontractor. Respondent agreed to help her and sent a letter with information about his legal fees and a copy of the complaint he drafted against the contractor. The letter failed to indicate that Respondent did not carry malpractice insurance. Respondent filed the complaint, but neglected to file an answer to the contractor's counterclaim, did not respond to requests for discovery, and failed to appear for a hearing. Respondent also failed to respond to the client's numerous inquiries about the case. The court entered a default judgment against Respondent's client and sanctioned the client for failing to respond to discovery. That same day, Respondent voluntarily dismissed the complaint without his client's knowledge or consent. Respondent filed a civil complaint for damages for another client, but did not respond to a motion for summary judgment and also ignored the client's numerous requests for information. The court dismissed the client's case with prejudice and the client did not learn of the dismissal for almost ten years. Respondent further negotiated a reduction of a medical provider's fee in a personal-injury case. Respondent was to pay the negotiated amount to a chiropractor from the settlement proceeds, but Respondent mistakenly delivered the entire settlement to the client. The chiropractor repeatedly asked Respondent for the payment and eventually filed a lawsuit against Respondent to recover the fee.

SANCTION: The parties stipulated that the appropriate sanction for Respondent was a two-year suspension, all stayed on conditions. However, based upon overwhelming evidence in support of Respondent's reputation for honesty and integrity during his 40-year legal career, the panel and Board recommended a one-year suspension, all stayed on conditions. The Court imposed the recommended sanction conditioned on three hours of CLE in law-office management, one year of probation with a monitor, and \$3,000 in restitution as suggested by the Board.

CASE AUTHORITY FOR SANCTION: *Micciulla* (2005)

Rules Violated: Prof.Cond.R. 1.3, 1.15(d); DR 1-104(A), 6-101(A)(3), 7-101(A)(2), 7-101(A)(3)

Aggravation/ Mitigation: A- (c) (pattern of misconduct), (d) (multiple offenses); M- (a) (no prior discipline), (d) (cooperative attitude), (e) (good character)

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: YES	Public Official: NO	Prior Discipline: NO	
Sanction: One-year suspension, fully stayed on conditions			

Zimmer, Stark Cty. Bar Assn. v.
[135 Ohio St. 3d 462, 2013-Ohio-1962](#). Decided 5/16/2013.

OVERVIEW: Respondent engaged in an illegal act that reflected adversely on his honesty and trustworthiness, conduct that was prejudicial to the administration of justice, and conduct involving dishonesty, fraud, deceit, or misrepresentation. Respondent also failed to cooperate in the disciplinary investigation and was under a registration suspension at the time of this case.

PROCEDURE: Respondent failed to answer the complaint. A master commissioner made findings of fact and conclusions of law, and recommended an indefinite suspension. The Board adopted the master commissioner's findings of fact, conclusions of law, and recommended sanction.

FINDINGS: The allegations of misconduct arose in part from Respondent's multiple driving infractions, in which the Court found a disregard for Respondent's obligations as both a citizen and a lawyer to respect and honor the law. Respondent crashed his car into a parked vehicle and a building and fled the scene without reporting the accident or leaving contact information. Respondent was ultimately found guilty of failure to stop after an accident. When Respondent was in custody for the accident, law-enforcement authorities discovered an outstanding bench warrant for Respondent's arrest that stemmed from an incident in 2008. Respondent had been convicted of driving without a license and was ordered to appear in open court and provide proof of a valid driver's license, but Respondent failed to do so, and the bench warrant was issued. Respondent was also arrested in 2006 for operating a motor vehicle while intoxicated and failure to control. A bench warrant was also issued for his failure to appear at the hearing in the matter. In 2012, Respondent pled guilty to the 2006 charge of operating a vehicle while intoxicated and was sentenced to home arrest. A bench warrant was then issued for Respondent's arrest for failing to report to the home arrest supervisor as ordered. The judge in that case received a letter from Respondent claiming that he was in a psychiatric unit and had attended approximately 45 AA meetings in an attempt at sobriety.

SANCTION: The Court adopted the Board's recommendation and imposed an indefinite suspension with reinstatement conditioned upon proof that Respondent has complied with an established substance-abuse program and that Respondent is capable of returning to the competent, ethical, and professional practice of law.

CASE AUTHORITY FOR SANCTION: *Pincus* (1995); *Larkin* (2011)

Rules Violated: Prof.Cond.R. [8.1\(b\)](#), [8.4\(b\)](#), [8.4\(c\)](#), [8.4\(d\)](#), [8.4\(h\)](#); DR 1-102(A)(1), 1-102(A)(3), 1-102(A)(4), 1-102(A)(5), 1-102(A)(6); Gov.Bar R. [V\(4\)\(G\)](#)

Aggravation/ Mitigation: A- [\(d\)](#) (multiple offenses), [\(e\)](#) (lack of cooperation); M- [\(f\)](#) (other penalties/sanctions)

Court Modified Sanction: NO		Criminal Conduct: NO	
Procedure/ Process Issues: YES	Public Official: NO	Prior Discipline: YES	
Sanction: Indefinite suspension			

INDEX

Aggravating & Mitigating Factors

Aggravation (BCGD Proc.Reg. 10(B)(1))

(a) (prior discipline)

Anthony (12/24/2013)
 Bricker (9/18/2013)
 Bunstine (8/28/2013)
 Carr (4/17/2013)
 Farah (8/28/2013)
 Fletcher (4/18/2013)
 Freeman (3/6/2013)
 Gill (10/24/2013)
 Hunt (4/17/2013)
 O'Malley (10/17/2013)
 Siehl (3/6/2013)

(b) (dishonest or selfish motive)

Anthony (12/24/2013)
 Axner (2/14/2013)
 Bogdanski (2/13/2013)
 Bunstine (8/28/2013)
 Carr (4/17/2013)
 Detweiler (5/2/2013)
 Greenberg (5/1/2013)
 Hunt (4/17/2013)
 Leskan (6/13/2013)
 McGowan (4/16/2013)
 O'Malley (10/17/2013)
 Talikka (3/20/2013)
 Terbeek (5/16/2013)
 Tomson (6/4/2013)
 Williams (9/24/2013)
 Wrentmore (11/21/2013)

(c) (pattern of misconduct)

Anthony (12/24/2013)
 Axner (2/14/2013)
 Bogdanski (2/13/2013)
 Brown-Daniels (3/19/2013)
 Detweiler (5/2/2013)
 Eynon (3/19/2013)
 Fletcher (4/18/2013)
 Freeman (3/6/2013)
 Gill (10/24/2013)
 Gruttadaurio (8/28/2013)
 Hunt (4/17/2013)
 Leskan (6/13/2013)
 McGowan (4/16/2013)
 Oberholtzer (9/4/2013)
 Snyder (9/4/2013)
 Stewart (3/12/2013)
 Talikka (3/20/2013)
 Williams (9/24/2013)
 Wrentmore (11/21/2013)
 Zena (10/23/2013)

(d) (multiple offenses)

Anthony (12/24/2013)
 Axner (2/14/2013)
 Bogdanski (2/13/2013)
 Brown-Daniels (3/19/2013)
 Evans (11/19/2013)
 Eynon (3/19/2013)
 Fletcher (4/18/2013)
 Freeman (3/6/2013)
 Gill (10/24/2013)
 Greenberg (5/1/2013)
 Gruttadaurio (8/28/2013)
 Hunt (4/17/2013)
 Lawrence (10/31/2013)
 Leskan (6/13/2013)
 Martorana (4/30/2013)
 McGowan (4/16/2013)
 Oberholtzer (9/4/2013)
 O'Malley (10/17/2013)
 Pryatel (4/24/2013)
 Snyder (9/4/2013)
 Stewart (3/12/2013)
 Talikka (3/20/2013)
 Tomer (12/19/2013)
 Tomson (6/4/2013)
 Underwood (7/18/2013)
 Wagner (11/21/2013)
 Williams (9/24/2013)
 Wrentmore (11/21/2013)
 Zena (10/23/2013)
 Zimmer (5/16/2013)

(e) (lack of cooperation)

Bogdanski (2/13/2013)
 Carr (4/17/2013)
 DeGidio (4/18/2013)
 Eynon (3/19/2013)
 Farah (8/28/2013)
 Freeman (3/6/2013)
 McGowan (4/16/2013)
 Oberholtzer (9/4/2013)
 Pryatel (4/24/2013)
 Siehl (3/6/2013)
 Stewart (3/12/2013)
 Terbeek (5/16/2013)
 Tomson (6/4/2013)
 Williams (9/24/2013)
 Wrentmore (11/21/2013)
 Zimmer (5/16/2013)

(f) (false or deceptive practices during investigation)

Bogdanski (2/13/2013)
 Carr (4/17/2013)

Tomer (12/19/2013)
 Williams (9/24/2013)
 Wrentmore (11/21/2013)

(g) (refusal to acknowledge wrongdoing)

Bogdanski (2/13/2013)
 Brown-Daniels (3/19/2013)
 Carr (4/17/2013)
 Freeman (3/6/2013)
 Gruttadaurio (8/28/2013)
 Pryatel (4/24/2013)
 Stewart (3/12/2013)
 Tomson (6/4/2013)
 Wrentmore (11/21/2013)

(h) (harm to vulnerable victim)

Adusei (7/23/2013)
 Anthony (12/24/2013)
 Axner (2/14/2013)
 Bogdanski (2/13/2013)
 Bunstine (8/28/2013)
 Detweiler (5/2/2013)
 Evans (11/19/2013)
 Freeman (3/6/2013)
 Greenberg (5/1/2013)
 Hunt (4/17/2013)
 Leskan (6/13/2013)
 McGowan (4/16/2013)
 Talikka (3/20/2013)
 Williams (9/24/2013)

(i) (no restitution)

Anthony (12/24/2013)
 Bogdanski (2/13/2013)
 Brown-Daniels (3/19/2013)
 Freeman (3/6/2013)
 Gruttadaurio (8/28/2013)
 Pryatel (4/24/2013)
 Talikka (3/20/2013)
 Terbeek (5/16/2013)
 Tomson (6/4/2013)
 Williams (9/24/2013)
 Wrentmore (11/21/2013)

Mitigation (BCGD Proc.Reg. 10(B)(2))

(a) (no prior discipline)

Adusei (7/23/2013)
 Axner (2/14/2013)
 Bogdanski (2/13/2013)
 Brown-Daniels (3/19/2013)
 DeGidio (4/18/2013)
 Evans (11/19/2013)
 Eynon (3/19/2013)
 Greenberg (5/1/2013)
 Gruttadaurio (8/28/2013)
 Hetzer (12/19/2013)
 Lawrence (10/31/2013)
 Lehmkuhl (10/16/2013)

Leskan (6/13/2013)
 Martorana (4/30/2013)
 McGowan (4/16/2013)
 Oberholtzer (9/4/2013)
 O'Malley (10/17/2013)
 Pryatel (4/24/2013)
 Snyder (9/4/2013)
 Stewart (3/12/2013)
 Talikka (3/20/2013)
 Taubman (9/3/2013)
 Terbeek (5/16/2013)
 Tomer (12/19/2013)
 Tomson (6/4/2013)
 Underwood (7/18/2013)
 Wagner (11/21/2013)
 White (5/30/2013)
 Wieczorek (5/1/2013)
 Williams (9/24/2013)
 Wrentmore (11/21/2013)
 Zena (10/23/2013)

(b) (no dishonest or selfish motive)

Bricker (9/18/2013)
 Evans (11/19/2013)
 Eynon (3/19/2013)
 Gill (10/24/2013)
 Gruttadaurio (8/28/2013)
 Lawrence (10/31/2013)
 Oberholtzer (9/4/2013)
 Snyder (9/4/2013)
 Stewart (3/12/2013)
 Tomer (12/19/2013)
 Wagner (11/21/2013)

(c) (restitution or rectified consequences)

Adusei (7/23/2013)
 Fletcher (4/18/2013)
 Greenberg (5/1/2013)
 Lawrence (10/31/2013)
 Leskan (6/13/2013)
 Martorana (4/30/2013)
 Snyder (9/4/2013)
 Taubman (9/3/2013)
 Underwood (7/18/2013)
 Wrentmore (11/21/2013)

(d) (full and free disclosure)

Adusei (7/23/2013)
 Anthony (12/24/2013)
 Bricker (9/18/2013)
 Detweiler (5/2/2013)
 Evans (11/19/2013)
 Fletcher (4/18/2013)
 Greenberg (5/1/2013)
 Gruttadaurio (8/28/2013)
 Hetzer (12/19/2013)
 Leskan (6/13/2013)
 Martorana (4/30/2013)

[Oberholtzer](#) (9/4/2013)
[O'Malley](#) (10/17/2013)
[Snyder](#) (9/4/2013)
[Taubman](#) (9/3/2013)
[Underwood](#) (7/18/2013)
[Wagner](#) (11/21/2013)
[White](#) (5/30/2013)
[Wieczorek](#) (5/1/2013)
[Wrentmore](#) (11/21/2013)
[Zena](#) (10/23/2013)

(e) (good character)

[Bricker](#) (9/18/2013)
[Evans](#) (11/19/2013)
[Eynon](#) (3/19/2013)
[Gill](#) (10/24/2013)
[Hetzer](#) (12/19/2013)
[Lawrence](#) (10/31/2013)
[Leskan](#) (6/13/2013)
[O'Malley](#) (10/17/2013)
[Pryatel](#) (4/24/2013)
[Snyder](#) (9/4/2013)
[Talikka](#) (3/20/2013)
[Taubman](#) (9/3/2013)
[Tomer](#) (12/19/2013)
[Wagner](#) (11/21/2013)

[Williams](#) (9/24/2013)
[Zena](#) (10/23/2013)

(f) (other penalties/ sanctions)

[Anthony](#) (12/24/2013)
[Brown-Daniels](#) (3/19/2013)
[Greenberg](#) (5/1/2013)
[McGowan](#) (4/16/2013)
[O'Malley](#) (10/17/2013)
[Pryatel](#) (4/24/2013)
[Underwood](#) (7/18/2013)
[Wagner](#) (11/21/2013)
[Williams](#) (9/24/2013)
[Zimmer](#) (5/16/2013)

(g) (chemical/ mental illness)

[Eynon](#) (3/19/2013)
[Gill](#) (10/24/2013)
[Greenberg](#) (5/1/2013)
[Leskan](#) (6/13/2013)

(h) (other rehabilitation)

[Pryatel](#) (4/24/2013)

[Return to Table of Contents](#)

Code of Judicial Conduct Violations

CJC Canon 1 (upholding the integrity and impartiality of the judiciary)

CJC Canon 2 (respecting/ complying with the law; acting in a manner that promotes public confidence in the judiciary)

CJC Canon 3 (performing duties of judicial office impartially and diligently)

CJC Canon 3(B)(2) (being faithful to the law and maintaining professional competence)

CJC Canon 3(B)(4) (being patient, dignified, and courteous in court requiring similar conduct of others)

CJC Canon 3(B)(5) (performing duties without bias and prejudice)

CJC Canon 3(B)(7) (engaging in ex parte communication)

CJC Canon 3(B)(8) (disposing of matters, promptly, efficiently, and fairly)

CJC Canon 3(B)(9) (abstaining from public comment about a proceeding)

CJC Canon 3(C)(1) (diligently discharging administrative responsibilities without bias or prejudice; maintaining professional competence in judicial administration)

CJC Canon 3(C)(2) (requiring staff, court officials, and others observe standards of fidelity and diligence that apply to the judge)

CJC Canon 3(E)(1) (disqualifying judge when the judge's impartiality might be questioned)

CJC Canon 4 (avoiding impropriety and the appearance of impropriety)

CJC Canon 4(A) (allowing relationships to influence conduct or judgment; lending prestige of office to advance interests of judge or others; testifying voluntarily as character witness)

CJC Canon 4(F) (practicing law)

Jud.Cond.R. 1.1 (compliance with the law)

Jud.Cond.R. 1.2 (promoting confidence in the judiciary)

Jud.Cond.R. 1.3 (avoiding abuse of the prestige of judicial office)

- Jud.Cond.R. 2.1** (giving precedence to the duties of judicial office)
- Jud.Cond.R. 2.2** (impartiality and fairness)
- Jud.Cond.R. 2.3** (bias, prejudice, and harassment)
- Jud.Cond.R. 2.4** (external influences on judicial conduct)
- Jud.Cond.R. 2.5** (competence, diligence, and cooperation)
- Jud.Cond.R. 2.5(A)** (perform judicial and administrative duties competently and diligently)
- Jud.Cond.R. 2.6** (ensuring the right to be heard)
- Jud.Cond.R. 2.6(A)** (shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard)
- Jud.Cond.R. 2.6(B)** (encourage parties to a proceeding and their lawyers to settle matters in dispute but shall not act in a manner that coerces any party into settlement)
- Jud.Cond.R. 2.7** (responsibility to decide)
- Jud.Cond.R. 2.8** (decorum, demeanor, and communication with jurors)
- Jud.Cond.R. 2.8(B)** (patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others)
- Jud.Cond.R. 2.9** (ex parte contacts and communications with others)
- Jud.Cond.R. 2.10** (judicial statements on pending and impending cases)
- Jud.Cond.R. 2.11** (disqualification)
[Evans](#) (11/19/2013)
- Jud.Cond.R. 2.11(A)** (disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned)
- Jud.Cond.R. 2.12** (supervisory duties)
- Jud.Cond.R. 2.13** (administrative appointments)
- Jud.Cond.R. 2.14** (disability and impairment)
- Jud.Cond.R. 2.15** (responding to judicial and lawyer misconduct)
- Jud.Cond.R. 2.16** (cooperation with disciplinary authorities)
- Jud.Cond.R. 3.1** (extrajudicial activities in general)
- Jud.Cond.R. 3.2** (appearances before governmental bodies and consultation with government officials)
- Jud.Cond.R. 3.3** (testifying as a character witness)
- Jud.Cond.R. 3.4** (appointments to governmental positions)
- Jud.Cond.R. 3.5** (use of nonpublic information)
- Jud.Cond.R. 3.6** (affiliation with discriminatory organizations)
- Jud.Cond.R. 3.7** (participation in educational, religious, charitable, fraternal, or civic organizations and activities)
- Jud.Cond.R. 3.8** (appointments to fiduciary positions)
- Jud.Cond.R. 3.9** (service as an arbitrator or mediator)
- Jud.Cond.R. 3.10** (practice law)
- Jud.Cond.R. 3.11** (financial, business, or remunerative activities)
- Jud.Cond.R. 3.12** (compensation for extrajudicial activities)
- Jud.Cond.R. 3.13** (acceptance and reporting of gifts, loans, bequests, benefits, or other things of value)
- Jud.Cond.R. 3.14** (reimbursement of expenses and waivers of fees or charges)
- Jud.Cond.R. 3.15** (reporting requirements)
- Jud.Cond.R. 4.1** (political and campaign activities of judges and judicial candidates)
- Jud.Cond.R. 4.2** (political and campaign activities of judicial candidates)
- Jud.Cond.R. 4.3** (campaign standards and communications)
- Jud.Cond.R. 4.4** (campaign solicitations and

contributions)

Jud.Cond.R. 4.5 (activities of a judge who

becomes a candidate for nonjudicial office)

Return to [Table of Contents](#)

Rules of Professional Conduct Violations

Rule 1.0(g) (terminology: knowingly, known, or knows)

Rule 1.0(i) (terminology: reasonable or reasonably)

Rule 1.1 (providing competent representation)

[Bogdanski](#) (2/13/2013)
[Brown-Daniels](#) (3/19/2013)
[Carr](#) (4/17/2013)
[Farah](#) (8/28/2013)
[Pryatel](#) (4/24/2013)
[Stewart](#) (3/12/2013)

Rule 1.2(a) (abiding by client's decisions concerning representation; consulting with clients as to means by which they are to be pursued)

[Tomson](#) (6/4/2013)

Rule 1.2(e) (not present, participate in presenting, or threaten to present criminal charges or professional misconduct allegations solely to obtain an advantage in a civil matter)

Rule 1.3 (acting with reasonable diligence and promptness)

[Axner](#) (2/14/2013)
[Bogdanski](#) (2/13/2013)
[Farah](#) (8/28/2013)
[Fletcher](#) (4/18/2013)
[Freeman](#) (3/6/2013)
[Gill](#) (10/24/2013)
[Gruttadaurio](#) (8/28/2013)
[Hetzer](#) (12/19/2013)
[McGowan](#) (4/16/2013)
[Oberholtzer](#) (9/4/2013)
[Pryatel](#) (4/24/2013)
[Stewart](#) (3/12/2013)
[Talikka](#) (3/20/2013)
[Tomer](#) (12/19/2013)
[Tomson](#) (6/4/2013)
[Williams](#) (9/24/2013)
[Zena](#) (10/23/2013)

Rule 1.4 (communication)

Rule 1.4(a)(1) (promptly informing the client of any circumstance with respect to which the client's informed consent is required)

Rule 1.4(a)(2) (reasonably consulting with client about means to accomplish objectives)

[Axner](#) (2/14/2013)
[Freeman](#) (3/6/2013)
[Gill](#) (10/24/2013)
[Tomer](#) (12/19/2013)

Rule 1.4(a)(3) (keeping client reasonably informed about status of matter)

[Axner](#) (2/14/2013)
[Bogdanski](#) (2/13/2013)
[Farah](#) (8/28/2013)
[Freeman](#) (3/6/2013)
[Gruttadaurio](#) (8/28/2013)
[Oberholtzer](#) (9/4/2013)
[Pryatel](#) (4/24/2013)
[Stewart](#) (3/12/2013)
[Talikka](#) (3/20/2013)

Rule 1.4(a)(4) (complying as soon as practicable with client's reasonable requests for information)

[Axner](#) (2/14/2013)
[Bogdanski](#) (2/13/2013)
[Farah](#) (8/28/2013)
[Freeman](#) (3/6/2013)
[Leskan](#) (6/13/2013)
[Oberholtzer](#) (9/4/2013)
[Pryatel](#) (4/24/2013)
[Talikka](#) (3/20/2013)

Rule 1.4(a)(5) (consulting with client about limitations when client expects unlawful assistance)

Rule 1.4(b) (explaining matters for clients to make informed decisions regarding representation)

[Axner](#) (2/14/2013)
[Bogdanski](#) (2/13/2013)
[Gill](#) (10/24/2013)
[Stewart](#) (3/12/2013)

Rule 1.4(c) (informing clients if professional-liability insurance is terminated)

[Bogdanski](#) (2/13/2013)
[Gill](#) (10/24/2013)
[Gruttadaurio](#) (8/28/2013)
[McGowan](#) (4/16/2013)
[Tomer](#) (12/19/2013)

Rule 1.5(a) (charging or collecting an illegal or clearly excessive fee)

[Adusei](#) (7/23/2013)
[Carr](#) (4/17/2013)
[Gruttadaurio](#) (8/28/2013)
[Martorana](#) (4/30/2013)
[Pryatel](#) (4/24/2013)
[Tomson](#) (6/4/2013)
[Williams](#) (9/24/2013)

Rule 1.5(b) (communicating to the client the nature and scope of representation and the basis or rate of the fee and expenses)

[Gill](#) (10/24/2013)

Rule 1.5(c) (contingent fee agreement)

[Williams](#) (9/24/2013)

Rule 1.5(c)(1) (contingent fee agreement in writing signed by the client)

[Adusei](#) (7/23/2013)

Rule 1.5(c)(2) (preparing closing statement in contingent fee matter)

[Talikka](#) (3/20/2013)

Rule 1.5(d)(3) (“Earned upon Receipt” or “non-refundable” fee)

[Gill](#) (10/24/2013)
[Snyder](#) (9/4/2013)

Rule 1.5(e) (fee division with lawyers not in the same firm)

[Gill](#) (10/24/2013)
[Snyder](#) (9/4/2013)

Rule 1.5(e)(2) (written consent after full disclosure of the identity of each lawyer)**Rule 1.6(a) (revealing information relating to the representation of a client)****Rule 1.7 (conflict of interest- current clients)****Rule 1.7(a)(2) (conflict of interest arising from lawyer’s responsibilities to another client, a former client, a third person, or lawyer’s own personal interests)**

[Detweiler](#) (5/2/2013)

Rule 1.7(b) (accepting/ continuing representation if conflict of interest created, unless conditions met)**Rule 1.8 (conflict of interest, current clients)**

[Williams](#) (9/24/2013)

Rule 1.8(a) (entering a business transaction with a client)**Rule 1.8(a)(1) (transaction and terms fair and reasonable and fully disclosed to client in writing)****Rule 1.8(a)(2) (advising client in writing of the desirability of seeking and giving reasonable opportunity to seek independent legal counsel)****Rule 1.8(a)(3) (informed consent to the essential terms of a transaction with lawyer)****Rule 1.8(e) (provide financial assistance to a client in connection with pending or contemplated litigation)**

[Williams](#) (9/24/2013)

Rule 1.8(h)(1) (making agreement prospectively to limit liability for malpractice or requiring arbitration of a claim)**Rule 1.8(h)(2) (settling a potential claim for professional liability without advising client in writing to seek counsel or obtaining client’s informed consent)****Rule 1.8(j) (soliciting or engaging in sexual activity with a client when no previous consensual sexual relationship existed)**

[Bunstine](#) (8/28/2013)
[Detweiler](#) (5/2/2013)
[Wieczorek](#) (5/1/2013)

Rule 1.9(a) (obtain informed consent of a client before representing another in the same or a substantially related matter adversely affecting the client)**Rule 1.9(c)(2) (revealing information relating to the representation of a former client)****Rule 1.15 (property of clients in an interest-bearing client trust account)**

[Tomer](#) (12/19/2013)

Rule 1.15(a) (holding property of clients or third persons separate from lawyer’s own property; safekeeping funds in separate interest bearing trust account)

[Bricker](#) (9/18/2013)
[DeGidio](#) (4/18/2013)
[Eynon](#) (3/19/2013)
[Freeman](#) (3/6/2013)
[Gill](#) (10/24/2013)
[Gruttadaurio](#) (8/28/2013)
[Hetzer](#) (12/19/2013)
[Stewart](#) (3/12/2013)

[Talikka](#) (3/20/2013)
[Taubman](#) (9/3/2013)
[Terbeek](#) (5/16/2013)
[Underwood](#) (7/18/2013)
[Williams](#) (9/24/2013)
[Wrentmore](#) (11/21/2013)

Rule 1.15(a)(2) (maintaining a record for each client)

[Bricker](#) (9/18/2013)
[Hetzer](#) (12/19/2013)
[Leskan](#) (6/13/2013)
[Talikka](#) (3/20/2013)
[Tomer](#) (12/19/2013)

Rule 1.15(a)(3) (maintaining a record for each bank account)

[Leskan](#) (6/13/2013)

Rule 1.15(a)(4) (maintaining bank statements, deposit slips, and cancelled checks)

Rule 1.15(a)(5) (performing and maintaining a monthly reconciliation)

[Bricker](#) (9/18/2013)
[Hetzer](#) (12/19/2013)
[Leskan](#) (6/13/2013)
[Talikka](#) (3/20/2013)
[Tomer](#) (12/19/2013)

Rule 1.15(b) (depositing own funds in client trust account for bank service charges)

[Eynon](#) (3/19/2013)
[Leskan](#) (6/13/2013)

Rule 1.15(c) (depositing unearned/ advanced fees into a trust account)

[Oberholtzer](#) (9/4/2013)
[Pryatel](#) (4/24/2013)
[Underwood](#) (7/18/2013)
[White](#) (5/30/2013)
[Williams](#) (9/24/2013)

Rule 1.15(d) (promptly delivering funds or property to client or third party)

[Leskan](#) (6/13/2013)
[McGowan](#) (4/16/2013)
[Stewart](#) (3/12/2013)
[Talikka](#) (3/20/2013)
[Williams](#) (9/24/2013)
[Wrentmore](#) (11/21/2013)
[Zena](#) (10/23/2013)

Rule 1.15(e) (improperly holding funds in dispute)

[Hetzer](#) (12/19/2013)
[Williams](#) (9/24/2013)

Rule 1.16(a)(1) (accepting, or failing to withdraw from, representation that will violate the Rules or other law)

Rule 1.16(a)(2) (withdrawing from representation when the lawyer's physical and mental condition materially impairs the lawyer's ability to represent the client)

Rule 1.16(a)(3) (requiring a lawyer not to represent a client after the lawyer has been discharged)

Rule 1.16(c) (withdrawing from representation in a proceeding without leave of court if required)

Rule 1.16(d) (taking steps to protect a client's interest as part of termination of representation)

[Freeman](#) (3/6/2013)

Rule 1.16(e) (promptly refunding fee paid in advance that is not earned)

[Freeman](#) (3/6/2013)

[Talikka](#) (3/20/2013)

Rule 1.18 (using or revealing information learned during discussions with a prospective client)

Rule 3.1 (not bringing or defending a proceeding, or asserting or controverting an issue in a proceeding, unless there is a basis in law and fact for doing so that is not frivolous)

[Lehmkuhl](#) (10/16/2013)

Rule 3.3(a)(1) (knowingly make or fail to correct a false statement of fact to a tribunal)

[Pryatel](#) (4/24/2013)

Rule 3.3(a)(3) (knowingly offering false evidence)

[Bogdanski](#) (2/13/2013)

Rule 3.3(d) (ex parte proceeding- requiring lawyer to inform tribunal of all material facts)

Rule 3.4(a) (destroying or concealing a document with evidentiary value)

Rule 3.4(c) (knowingly disobey the rules of a tribunal)

[Axner](#) (2/14/2013)

Rule 3.5(a)(1) (prohibiting a lawyer from seeking to influence a judicial officer, juror, prospective juror, or other official by means prohibited by law)

[O'Malley](#) (10/17/2013)

Rule 3.5(a)(3) (prohibiting a lawyer from communicating ex parte with a judicial officer as to the merits of the case during the proceeding)

[O'Malley \(10/17/2013\)](#)

Rule 3.5(a)(6) (undignified or discourteous conduct that is degrading to a tribunal)

Rule 4.1 (truthfulness in statements to others)

Rule 4.1(a) (making false statement to third person during representation)

[Carr \(4/17/2013\)](#)

Rule 5.1(c)(1) (managing lawyer is responsible for another's violation if managing lawyer orders or ratifies the conduct)

Rule 5.3 (responsibilities regarding nonlawyer assistants)

Rule 5.3(a) (managing lawyer must have measures in effect to assure non-lawyer's conduct is compatible with professional obligations)

Rule 5.3(b) (supervisory lawyer must make reasonable efforts to ensure conduct is compatible with professional obligations)

Rule 5.4(a) (prohibiting lawyer from sharing legal fees with a nonlawyer)

[Axner \(2/14/2013\)](#)

Rule 5.4(c) (prohibiting a lawyer from permitting a person pays the lawyer to direct or regulate the lawyers' professional judgment)

Rule 5.5 (unauthorized practice of law; multijurisdictional practice of law)

Rule 5.5(a) (prohibiting a lawyer from practicing law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so)

[Axner \(2/14/2013\)](#)

[Fletcher \(4/18/2013\)](#)

Rule 5.5(b)(2) (prohibiting a lawyer who is not admitted to practice in this jurisdiction from holding himself out as admitted to practice)

Rule 7.1 (communications concerning a lawyer's services)

Rule 7.2(b) (giving anything of value to a person for recommendation of the lawyer's services)

Rule 7.3(c)(3) ("ADVERTISING MATERIAL" OR "ADVERTISEMENT ONLY")

[Snyder \(9/4/2013\)](#)

Rule 7.5(a) (practicing under a trade name or a misleading name)

Rule 7.5(d) (stating or implying practice in partnership or other organization)

Rule 8.1 (bar admission and disciplinary matters)

Rule 8.1(a) (knowingly making a false statement of material fact in connection with a disciplinary matter)

[Fletcher \(4/18/2013\)](#)

[Gruttadaurio \(8/28/2013\)](#)

[Wrentmore \(11/21/2013\)](#)

Rule 8.1(b) (failing to disclose fact or failing to respond to demand for information from a disciplinary authority)

[Axner \(2/14/2013\)](#)

[Bogdanski \(2/13/2013\)](#)

[DeGidio \(4/18/2013\)](#)

[Eynon \(3/19/2013\)](#)

[Farah \(8/28/2013\)](#)

[Freeman \(3/6/2013\)](#)

[Gill \(10/24/2013\)](#)

[McGowan \(4/16/2013\)](#)

[Oberholtzer \(9/4/2013\)](#)

[Siehl \(3/6/2013\)](#)

[Stewart \(3/12/2013\)](#)

[Tomson \(6/4/2013\)](#)

[Zimmer \(5/16/2013\)](#)

Rule 8.2 (judicial officials)

Rule 8.2(a) (false or reckless statements concerning the integrity of a judicial officer)

Rule 8.3(a) (requiring an attorney to report to disciplinary authority violations of the Rules)

Rule 8.4(a) (violating, attempting to violate, knowingly assisting or inducing another to violate the Rules)

[Carr \(4/17/2013\)](#)

Rule 8.4(b) (committing illegal act that reflects adversely on honesty or trustworthiness)

[Freeman \(3/6/2013\)](#)

[Greenberg \(5/1/2013\)](#)

[McGowan \(4/16/2013\)](#)

[O'Malley \(10/17/2013\)](#)

[Wagner \(11/21/2013\)](#)

[Williams \(9/24/2013\)](#)

[Wrentmore \(11/21/2013\)](#)

[Zimmer \(5/16/2013\)](#)

Rule 8.4(c) (conduct involving dishonesty, fraud, deceit, or misrepresentation)

[Axner \(2/14/2013\)](#)
[Bogdanski \(2/13/2013\)](#)
[Brown-Daniels \(3/19/2013\)](#)
[Carr \(4/17/2013\)](#)
[Fletcher \(4/18/2013\)](#)
[Gruttadaurio \(8/28/2013\)](#)
[Leskan \(6/13/2013\)](#)
[McGowan \(4/16/2013\)](#)
[O'Malley \(10/17/2013\)](#)
[Pryatel \(4/24/2013\)](#)
[Talikka \(3/20/2013\)](#)
[Terbeek \(5/16/2013\)](#)
[Tomer \(12/19/2013\)](#)
[Tomson \(6/4/2013\)](#)
[Williams \(9/24/2013\)](#)
[Wrentmore \(11/21/2013\)](#)
[Zimmer \(5/16/2013\)](#)

Rule 8.4(d) (conduct prejudicial to the administration of justice)

[Axner \(2/14/2013\)](#)
[Bogdanski \(2/13/2013\)](#)
[Brown-Daniels \(3/19/2013\)](#)
[Carr \(4/17/2013\)](#)
[DeGidio \(4/18/2013\)](#)
[Eynon \(3/19/2013\)](#)
[Fletcher \(4/18/2013\)](#)
[Gill \(10/24/2013\)](#)
[Gruttadaurio \(8/28/2013\)](#)
[Leskan \(6/13/2013\)](#)
[Oberholtzer \(9/4/2013\)](#)
[O'Malley \(10/17/2013\)](#)
[Talikka \(3/20/2013\)](#)
[Terbeek \(5/16/2013\)](#)
[Tomson \(6/4/2013\)](#)
[Underwood \(7/18/2013\)](#)
[Williams \(9/24/2013\)](#)
[Zimmer \(5/16/2013\)](#)

Rule 8.4(h) (conduct adversely reflecting on lawyer's fitness to practice)

[Axner \(2/14/2013\)](#)
[Bogdanski \(2/13/2013\)](#)
[Brown-Daniels \(3/19/2013\)](#)
[Bunstine \(8/28/2013\)](#)
[Carr \(4/17/2013\)](#)
[DeGidio \(4/18/2013\)](#)
[Detweiler \(5/2/2013\)](#)
[Eynon \(3/19/2013\)](#)
[Fletcher \(4/18/2013\)](#)
[Freeman \(3/6/2013\)](#)
[Gill \(10/24/2013\)](#)
[Greenberg \(5/1/2013\)](#)
[Gruttadaurio \(8/28/2013\)](#)
[Leskan \(6/13/2013\)](#)
[McGowan \(4/16/2013\)](#)
[Oberholtzer \(9/4/2013\)](#)
[O'Malley \(10/17/2013\)](#)
[Talikka \(3/20/2013\)](#)
[Taubman \(9/3/2013\)](#)
[Terbeek \(5/16/2013\)](#)
[Tomson \(6/4/2013\)](#)
[Underwood \(7/18/2013\)](#)
[Wagner \(11/21/2013\)](#)
[Williams \(9/24/2013\)](#)
[Wrentmore \(11/21/2013\)](#)
[Zimmer \(5/16/2013\)](#)

Rule 8.5(a) (a lawyer admitted to practice in Ohio is subject to the disciplinary authority of Ohio, regardless of where the conduct occurs)

Rule 8.5(b)(2) (the rules of the jurisdiction in which the lawyer's conduct occurred, or, if the predominant effect of the conduct is in a different jurisdiction, the rules of that jurisdiction shall be applied)

Return to [Table of Contents](#)

Disciplinary Rule Violations

DR 1-102(A)(1) (prohibiting a lawyer from violating a disciplinary rule)

[Zimmer \(5/16/2013\)](#)

DR 1-102(A)(3) (engaging in illegal conduct involving moral turpitude)

[Anthony \(12/24/2013\)](#)
[Zimmer \(5/16/2013\)](#)

DR 1-102(A)(4) (conduct involving dishonesty, fraud, deceit, or misrepresentation)

[Anthony \(12/24/2013\)](#)
[Hunt \(4/17/2013\)](#)
[Terbeek \(5/16/2013\)](#)
[Tomson \(6/4/2013\)](#)
[Zimmer \(5/16/2013\)](#)

DR 1-102(A)(5) (conduct prejudicial to the administration of justice)

[Tomson \(6/4/2013\)](#)
[Zimmer \(5/16/2013\)](#)

DR 1-102(A)(6) (conduct adversely reflecting on fitness to practice law)

[Anthony](#) (12/24/2013)

[Terbeek](#) (5/16/2013)

[Tomson](#) (6/4/2013)

[Zimmer](#) (5/16/2013)

DR 1-104 (informing client of lack of professional malpractice insurance)

[McGowan](#) (4/16/2013)

DR 1-104(A) (informing client of lack of professional malpractice insurance)

[Zena](#) (10/23/2013)

DR 1-104(B) (maintaining copy of notice)**DR 1-104(C) (notice required unless applicable exception)****DR 2-101(A)(1) (false, fraudulent, misleading, deceptive, self-laudatory, or unfair statements)****DR 2-101(F)(1) (soliciting legal business in person or by telephone)****DR 2-102(B) (practice under a trade name; misleading name)****DR 2-102(C) (improper representation of the existence of partnership)****DR 2-103(A) (recommending employment of self, partner, or associate to non-lawyer without solicitation)****DR 2-103(B) (compensating a person to recommend employment)****DR 2-103(C) (requesting a person to promote the use of lawyer's services)****DR 2-106(A) (charging or collecting a clearly excessive or illegal fee)**

[Lawrence](#) (10/31/2013)

[Tomson](#) (6/4/2013)

DR 2-106(B) (fee in excess of reasonable fee)**DR 2-107(A) (fee division by lawyers not in the same firm)****DR 2-107(A)(1) (fee division in proportion to services performed)****DR 2-107(A)(2) (terms of fee division and identities of lawyers not disclosed in writing)****DR 2-107(A)(3) (total fee is unreasonable)****DR 2-110(A)(2) (withdrawal without steps to avoid foreseeable prejudice to client; failing to return papers)****DR 2-110(A)(3) (failing after withdrawal to promptly refund any unearned fees)****DR 2-110(B)(2) (representing client when continued employment will result rule violation)****DR 3-101(A) (aiding a non-lawyer in the unauthorized practice of law)****DR 3-101(B) (practice of law violating professional regulations)****DR 3-102 (sharing fees with a non-lawyer)****DR 3-103(A) (forming a partnership with a non-lawyer to practice law)****DR 4-101 (failing to preserve the confidences of a client)****DR 4-101(B)(1) (knowingly revealing the secrets or confidences of a client)****DR 4-101(B)(2) (failure to preserve client confidences and secrets)****DR 5-101(A)(1) (employment when attorney's judgment might be influenced by personal interests)****DR 5-101(A)(2) (preparing a will/trust in which the lawyer is named a beneficiary)****DR 5-103(B) (providing financial assistance to client)****DR 5-104(A) (entering into a business transaction with client when interests differ)**

DR 5-105(A) (declining employment if judgment is or is likely to be adversely affected)

DR 5-105(B) (continuing employment when judgment is likely to be adversely affected by representation of another client)

DR 5-105(C) (representing multiple clients without full disclosure)

DR 6-101(A) (failing to act competently)

DR 6-101(A)(1) (handling a legal matter not competent to handle)

[Hunt](#) (4/17/2013)

[Stewart](#) (3/12/2013)

DR 6-101(A)(2) (handling a legal matter without adequate preparation)

[Hunt](#) (4/17/2013)

DR 6-101(A)(3) (neglecting an entrusted legal matter)

[Hunt](#) (4/17/2013)

[Lawrence](#) (10/31/2013)

[McGowan](#) (4/16/2013)

[Stewart](#) (3/12/2013)

[Tomson](#) (6/4/2013)

[Zena](#) (10/23/2013)

DR 6-102 (attempt to exonerate self from or limit liability to client for malpractice)

DR 7-101(A)(1) (failing to seek lawful objectives through reasonable means)

[Hunt](#) (4/17/2013)

[Lawrence](#) (10/31/2013)

[Tomson](#) (6/4/2013)

DR 7-101(A)(2) (failure to carry out a contract of employment)

[Lawrence](#) (10/31/2013)

[Tomson](#) (6/4/2013)

[Zena](#) (10/23/2013)

DR 7-101(A)(3) (causing prejudice or damage to client)

[Lawrence](#) (10/31/2013)

[Zena](#) (10/23/2013)

DR 7-102(A)(1) (taking legal action merely to harass or injure another)

DR 7-102(A)(2) (advancing claim or defense unwarranted under existing law)

DR 7-102(A)(3) (concealing or knowingly failing to disclose what the law requires to be revealed)

DR 7-102(A)(4) (knowingly using perjured testimony or false evidence)

DR 7-102(A)(5) (knowingly making false statements of law or fact)

DR 7-102(A)(6) (knowingly participating in the creation or presentation of false evidence)

DR 7-102(A)(7) (counseling or assisting a client in illegal or fraudulent conduct)

DR 7-102(A)(8) (conduct contrary to a disciplinary rule)

DR 7-103(B) (failing to timely disclose evidence in a criminal trial)

DR 7-105(A) (threatening criminal prosecution to obtain an advantage in a civil matter)

DR 7-106(A) (disregarding ruling of a tribunal)

DR 7-106(B)(7) (intentionally or habitually violating any established rule of procedure)

DR 7-106(C)(1) (making statements unsupported by evidence)

DR 7-106(C)(2) (questions with no reasonable basis to believe are relevant and are intended to degrade a someone)

DR 7-106(C)(4) (asserting personal opinion)

DR 7-106(C)(6) (undignified or discourteous conduct before a tribunal)

DR 7-109(A) (suppressing evidence that attorney or client has a legal obligation to produce)

DR 7-110(B) (communicating as to the merits of a cause with a presiding judge or official on a

pending matter)

DR 8-102(B) (making false accusations against a judge or other adjudicatory officers)

DR 9-102 (failing to preserve the identity of a client's funds and property)

DR 9-102(A) (commingling funds)

[Lawrence](#) (10/31/2013)

DR 9-102(A)(2) (failure to maintain a trust account; failure to preserve funds and property)

[Terbeek](#) (5/16/2013)

DR 9-102(B) (failure to identify or keep record of funds)

DR 9-102(B)(1) (failure to promptly notify a client of the receipt of client's funds)

DR 9-102(B)(3) (failure to maintain complete records of all client's property)

[Lawrence](#) (10/31/2013)

DR 9-102(B)(4) (failure to promptly pay or deliver client funds, securities or other property)

[Lawrence](#) (10/31/2013)

DR 9-102(E)(1) (failure to maintain clients' funds in trust account)

Return to [Table of Contents](#)

Governing Bar Rule V Violations

Gov. Bar R. I(8)(A) (oath of office)

[Lawrence](#) (10/31/2013)

Gov. Bar R. V(4)(G) (failure to cooperate with disciplinary investigation)

[Axner](#) (2/14/2013)

[Bogdanski](#) (2/13/2013)

[DeGidio](#) (4/18/2013)

[Eynon](#) (3/19/2013)

[Farah](#) (8/28/2013)

[Freeman](#) (3/6/2013)

[Gill](#) (10/24/2013)

[Lawrence](#) (10/31/2013)

[Lehmkuhl](#) (10/16/2013)

[McGowan](#) (4/16/2013)

[Oberholtzer](#) (9/4/2013)

[Tomer](#) (12/19/2013)

[Tomson](#) (6/4/2013)

[Williams](#) (9/24/2013)

[Zimmer](#) (5/16/2013)

Gov. Bar R. V(8)(G)(2) (failure to register a suspended attorney with the Office of Disciplinary Counsel)

[Axner](#) (2/14/2013)

Gov. Bar R. V(11)(E) (proceedings and documents relating to review and investigation of grievances be private)

[Evans](#) (11/19/2013)

Return to [Table of Contents](#)

Prior Disciplinary Record

Attorney Registration

[Anthony](#) (12/24/2013)

[Bricker](#) (9/18/2013)

[Farah](#) (8/28/2013)

[Siehl](#) (3/6/2013)

[Zimmer](#) (5/16/2013)

[Farah](#) (8/28/2013)

[Fletcher](#) (4/18/2013)

[Freeman](#) (3/6/2013)

[Gill](#) (10/24/2013)

[Hunt](#) (4/17/2013)

[Siehl](#) (3/6/2013)

Board Discipline

[Bunstine](#) (8/28/2013)

[Carr](#) (4/17/2013)

[Detweiler](#) (5/2/2013)

Other

Return to [Table of Contents](#)

Public Employee Discipline

Judges/ Former Judges/ Magistrates

[Evans](#) (11/19/2013)

Public Officials/ Former Public Officials[Siehl \(3/6/2013\)](#)[Return to Table of Contents](#)**Criminal Conduct****Felony Conduct**

[Anthony \(12/24/2013\)](#)
[Greenberg \(5/1/2013\)](#)
[McGowan \(4/16/2013\)](#)
[O'Malley \(10/17/2013\)](#)
[Wagner \(11/21/2013\)](#)
[Williams \(9/24/2013\)](#)

Misdemeanor Conduct

[Gill \(10/24/2013\)](#)
[Pryatel \(4/24/2013\)](#)

Treatment in Lieu of Conviction[Return to Table of Contents](#)**Disciplinary Procedural Issues****Aggravation/ Mitigation****Consent-to-Discipline**

[Taubman \(9/3/2013\)](#)
[Underwood \(7/18/2013\)](#)
[Wieczorek \(5/1/2013\)](#)

Default Proceeding

[Carr \(4/17/2013\)](#)
[DeGidio \(4/18/2013\)](#)
[Eynon \(3/19/2013\)](#)
[Farah \(8/28/2013\)](#)
[Freeman \(3/6/2013\)](#)
[Siehl \(3/6/2013\)](#)
[Terbeek \(5/16/2013\)](#)
[Tomson \(6/4/2013\)](#)
[Zimmer \(5/16/2013\)](#)

Mental Health Suspension[Lawrence \(10/31/2013\)](#)**Sanction Increase/ Decrease**[Detweiler \(5/2/2013\) \(+\)](#)

[Evans \(11/19/2013\) \(+\)](#)
[Gill \(10/24/2013\) \(-\)](#)
[Gruttadaurio \(8/28/2013\) \(+\)](#)
[McGowan \(4/16/2013\) \(+\)](#)
[O'Malley \(10/17/2013\) \(+\)](#)
[Talikka \(3/20/2013\) \(-\)](#)
[Williams \(9/24/2013\) \(+\)](#)

Other**Remanded by Board**

[Detweiler \(5/2/2013\)](#)
[Evans \(11/19/2013\)](#)
[Hetzer \(12/19/2013\)](#)

Remanded by Court

[Eynon \(3/19/2013\)](#)
[Lehmkuhl \(10/16/2013\)](#)
[Matorana \(4/30/2013\)](#)
[Pryatel \(4/24/2013\)](#)
[Zena \(10/23/2013\)](#)

[Return to Table of Contents](#)**SANCTION****Court Dismissal on Merits****Disbarment**

[Fletcher \(4/18/2013\)](#)
[Freeman \(3/6/2013\)](#)
[Terbeek \(5/16/2013\)](#)
[Tomson \(6/4/2013\)](#)
[Williams \(9/24/2013\)](#)

Indefinite Suspension

[Anthony \(12/24/2013\)](#)
[Axner \(2/14/2013\)](#)
[Bogdanski \(2/13/2013\)](#)
[Carr \(4/17/2013\)](#)

[Farah \(8/28/2013\)](#)
[Greenberg \(5/1/2013\)](#)
[Gruttadaurio \(8/28/2013\)](#)
[Hunt \(4/17/2013\)](#)
[Leskan \(6/13/2013\)](#)
[McGowan \(4/16/2013\)](#)
[O'Malley \(10/17/2013\)](#)
[Pryatel \(4/24/2013\)](#)
[Siehl \(3/6/2013\)](#)
[Wagner \(11/21/2013\)](#)
[Wrentmore \(11/21/2013\)](#)
[Zimmer \(5/16/2013\)](#)

Public Reprimand

[Adusei](#) (7/23/2013)
[Bricker](#) (9/18/2013)
[Hetzer](#) (12/19/2013)
[Lehmkuhl](#) (10/16/2013)
[Martorana](#) (4/30/2013)
[Snyder](#) (9/4/2013)
[White](#) (5/30/2013)
[Wieczorek](#) (5/1/2013)

Term Suspension

[Brown-Daniels](#) (3/19/2013)
[Bunstine](#) (8/28/2013)
[DeGidio](#) (4/18/2013)
[Detweiler](#) (5/2/2013)

[Evans](#) (11/19/2013)
[Eynon](#) (3/19/2013)
[Gill](#) (10/24/2013)
[Lawrence](#) (10/31/2013)
[Oberholtzer](#) (9/4/2013)
[Stewart](#) (3/12/2013)
[Talikka](#) (3/20/2013)
[Taubman](#) (9/3/2013)
[Tomer](#) (12/19/2013)
[Zena](#) (10/23/2013)
[Underwood](#) (7/18/2013)

[Return to Table of Contents](#)