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In the Supreme Court of the State of Alaska

In the Disciplinary Matter Involving)	
)	Supreme Court No. S-16946
ERIN R. GONZALEZ-POWELL,)	ABA File Nos. 2016D107, 2016D143,
Attorney.)	2016D156, 2017D008/009/010,
)	2017D079, 2017D191, 2017D192
)	Order
)	
)	Order No. 111 – June 5, 2020
)	

Before: Bolger, Chief Justice, Winfree, Stowers, Maassen, and Carney,
Justices.

On June 3, 2019, the Area Hearing Committee (AHC) issued a report to the Alaska Bar Association Disciplinary Board with Findings of Fact, Conclusions of Law, and Recommendations in the disciplinary matter of attorney Erin R. Gonzalez-Powell; the Area Hearing Committee recommended disbaring Gonzalez-Powell.

The Disciplinary Board agreed with the AHC and adopted the AHC's findings, conclusions, and recommendations.

The facts of Gonzalez-Powell's misconduct are set forth in the AHC's Report to Board with Findings of Fact, Conclusions of Law, and Recommendations, which is attached as an appendix.¹ We take these facts as true,² and we apply our

¹ The report has been edited to delete identifying references to others, for clarification, and to conform to supreme court technical requirements.

² *Cf. In re Miles*, 339 P.3d 1009, 1018 (Alaska 2014) (stating we independently review entire disciplinary proceeding record while affording great weight (continued...))

independent judgment to the sanction's appropriateness.³

We agree with the legal analysis as set out in the AHC's thorough report and find the recommended sanctions appropriate for Gonzalez-Powell's misconduct.

IT IS ORDERED:

1. The Disciplinary Board's findings, conclusions, and recommendations for discipline are **APPROVED**.

2. Effective the date of this order, Erin R. Gonzalez-Powell is **DISBARRED** from the practice of law.

3. Pursuant to the schedule provided in Alaska Bar Rule 16(c)(3), Gonzalez-Powell must pay \$3,000 in costs and attorney's fees to the Alaska Bar Association within 60 days of entry of this order.

4. If Gonzalez-Powell seeks reinstatement under Alaska Bar Rule 29, she must prove that she has met the following terms and conditions:

a. Establish that she has made full restitution of any amounts owed to the Alaska Bar Association, the Lawyers' Fund for Client Protection, and to all clients for any fee arbitration awards. No claims have been filed at this time.

b. Provide with her application to reinstatement an expert opinion of a psychiatrist or psychologist that she has no mental condition or illness that currently interferes with her practice of law, and that she has addressed the childhood and/or adult trauma, personality or emotional issues, that caused her to commit the misconduct in 2016-2017.

² (...continued)
to Disciplinary Board's findings of fact).

³ *Id.*

c. Submit a clean urinalysis test not more than 30 days before her petition, and agree for one year after reinstatement to provide quarterly tests that disclose no drug or alcohol impairment.⁴

d. Accept being supervised and mentored by a currently licensed Alaska attorney located in her city of residence, who is mutually acceptable to Respondent and Bar Counsel. The period of supervision will be determined by the Disciplinary Board upon reinstatement. The Disciplinary Board recommends that the supervision be mandatory for two years, with monthly in-person meetings.

e. Submit a comprehensive plan acceptable to Bar Counsel showing how Respondent will manage her accounting with written financial procedures for handling client funds. If reinstated, she must retain an accountant or bookkeeper acceptable to Bar Counsel to oversee her financial and trust accounting practices for not less than two years after reinstatement. Respondent shall voluntarily submit reports to Bar Counsel establishing that her accounts and finances are being competently handled, every six months during the two-year period.

f. Certify that she has earned nine credit hours of Continuing Legal Education in the areas of legal ethics, law office management, and management of law office accounts.

⁴ The Disciplinary Board did not determine that Respondent is impaired by substance abuse. Respondent denies drug misuse. At the same time, Respondent affirmatively stated she has no objection to drug-testing conditions. The Disciplinary Board found that Respondent has been repeatedly accused of drug-related impairment, and that her conduct and presentation would readily lead to a conclusion of impairment. Passing a drug test as a condition of reinstatement will help Respondent establish that she presents no harm to the public.

Entered by direction of the court.

Clerk of the Appellate Courts

/s/ M. Montgomery

Meredith Montgomery

cc: Supreme Court Justices
Publishers

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BEFORE THE ALASKA BAR ASSOCIATION
AREA HEARING COMMITTEE
THIRD JUDICIAL DISTRICT

ALASKA BAR ASSOCIATION
Filed and Entered on

JUN 03 2019

Pursuant to the Rules of
Disciplinary Enforcement
Received By *Ann D. Sullivan*
For Deborah O'Regan

In the Disciplinary Matter)
Involving)
ERIN R. GONZALEZ-POWELL,)
Respondent.)

ABA Member No. 1405031
ABA File Nos. 2016D107, 2016D143, 2016D156, 2017D008/009/010,
2017D079, 2017D191 and 2017D192

**AREA HEARING COMMITTEE'S REPORT TO BOARD WITH FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND RECOMMENDATIONS**

Multiple Bar complaints were filed against Respondent Erin Gonzalez-Powell in 2016 for events that started in February 2016. Additional complaints were filed in 2017. In January 2018 the Alaska Bar Association moved for an interim suspension from the practice of law, which the Supreme Court granted effective April 10, 2018. Two weeks later, on April 26, 2018, the Bar filed the Petition for Formal Hearing, citing 4 client grievances, a grievance filed by a judge, and a consolidated grievance related to Respondent's IOLTA account:

ABA#2016D107: *B.S.* v. Gonzalez-Powell (February- June 2016)
ABA#2016D142: *A.B.* v. Gonzalez-Powell (February 2016 - 2017)
ABA#2017D079: *Jeremy N.* v. Gonzalez-Powell (November 2016 - March 2017)
ABA#2017D191: *Adele L.* v. Gonzalez-Powell (June 2017 – October 2017).
ABA#2017D192: *ABA (Lamoureux) v. Gonzalez-Powell (re:Abbey L.)* (2017)
ABA# 2016D156-ABA (BC) v. Gonzalez-Powell, 2017D008/009/010 (2016-2017).

Respondent did not answer the Petition by the due date of May 22, 2018. A week after the due date, the Executive Director of the Alaska Bar Association, acting as the Disciplinary Board clerk, deemed the Petition's charges admitted pursuant to Bar Rule 22 (e). (May 29, 2018). On June 6, 2018, Respondent filed her "Motion to Accept Late Filed Objection to Petition," stating she would respond to the Petition the next day. On June 7, nothing was filed. Bar Counsel opposed the motion for late filing. On June 12, 2018, Gonzalez-Powell filed her objections to the Petition, including for the panel's information, her lengthy "Objection to Alaska

Bar Association's (February 2018) Report and Recommendations" filed with the Supreme Court. (Objecting to evidence received in the Court's interim suspension proceedings).¹

On June 14, 2018, Bar Counsel filed a "Response to Late Filed Objection to Petition for Formal Hearing." On June 19, 2018, Respondent filed a "Second Motion to Accept Late filed Objection to Petition," and later that afternoon, a "Reply Re: Motion to Accept Late-Filed Objection." In these pleadings, Respondent claimed that Bar Counsel had earlier predicted a May 2018 hearing date, and should have filed its petition 6 months earlier.

On June 22, 2018, under Rule 22(e), the Chair of the Area Committee concluded that Respondent had not established excusable neglect and denied her motion to accept late filing. This decision left the appropriate sanctions to be determined by the Area Hearing Committee.

The parties agreed to a sanctions hearing date of October 16, 2018. Shortly before the hearing, Respondent moved to postpone the hearing. The motion was granted. On October 15, 2018, Respondent filed a "Motion for Leave to file Past Due Materials," which was also granted. The parties convened on October 16, 2018 for a status conference in lieu of the hearing. November 29-30, 2018 was selected as the new hearing date. On October 17, 2018, Respondent filed a Proposed Witness list identifying 60 individuals, and on October 18, she filed an amended list, naming 2 more witnesses. On November 27, 2018, Respondent filed a "Notice of Intent to Cross-Examine Witnesses and Objection to Affidavits and Supplemental Materials", stating she intended to cross-examine complainant *B.S.* and Judge Morse, who as presiding judge of the Anchorage courts had written a letter to the Bar in December 2017. Also on November 27, Respondent filed a brief titled "Motion and Memorandum Requesting Clarification as to the Limitations Placed on the Sanctions Hearing," (the "Clarification Motion") contending that the sanctions hearing would not allow her to effectively present her defenses to the original Petition, because she could not have a state of mind regarding events that "in reality did not occur." She objected to being "denied" discovery, the unfairness of the Petition being deemed admitted, and false and gross mischaracterizations of fact by Bar Counsel. She did not file a prehearing brief, explaining later that she had filed the Clarification Motion instead.

¹Respondent later explained that she filed the Supreme Court pleading with the Committee to show how much research and work she did to prepare a well-thought and thoroughly crafted answer to the Petition, and to explain why her answer was late. Motion and Memorandum Requesting Clarification as to the Limits Placed on Sanctions Hearing at 6.

On November 14, 2018, the Committee ruled that Respondent should submit a revised witness list, with contact information, no later than November 20, 2018. Respondent submitted her next witness list on November 28, 2018, after the Bar office was closed. Her new witness list was not "filed" until November 29, the day of the hearing.

On November 29, 2018 the Bar presented its case through Assistant Bar Counsel Louise R. Driscoll. Respondent represented herself. Petitioner called *B.S.* to testify in person, based on Respondent's notice of intent to cross-examine. Opening statements were completed the first day and the Bar rested after *B.S.*'s testimony. Respondent began her testimony. On November 30, 2018, the second day of hearing, an earthquake shut-down the courthouse an hour before the hearing was to begin. On January 10, 2019 the hearing resumed at 8:30 a.m. Respondent arrived 20 minutes late. She called two witnesses, and continued her own testimony. The hearing ended as scheduled that afternoon.

At the hearing, Respondent stated that she did not commit most of the charged violations, and that if any violations occurred, they were not committed with knowledge or intention. All of her evidence was admitted as potentially relevant to the appropriate sanctions for the admitted violations.

The multiple complaints and their circumstances are detailed in the Petition, with each grievance having separately stated events and dates. Because most of Respondent's defenses focus on events in her personal life, the findings are placed below in a single timeline. The timeline lists the events as Respondent faced them, in order to assess her contention that violations did not occur and her denial of a knowing or intentional mental state, and to address any mitigating or aggravating factors. Italics indicate Respondent's argument or testimony.

FINDINGS TIMELINE

Mid-January 2016. In the A.B. case, both initial disclosures and responses to discovery are past-due. The A.B. case dates from December 2014 when Respondent and Attorney Steven Wells filed claims alleging that an Anchorage municipal police officer raped A.B. after picking her up for DUI. Defense discovery requests were served December 1, 2015. Wells advises that Respondent will provide the discovery to the defense. *Respondent did not know about discovery deadlines for "8 months" because she was not being served by defense in 2015, only Wells was being served.*

February 2, 2016. In A.B., Respondent's co-counsel Wells advises that Respondent served discovery "2 weeks earlier." Wells copies Respondent.

February 2016. *B.S.* hires Respondent in a custody matter involving her 3-year old daughter. *B.S.* explains that she has a new job in Hawaii, plans to move there in April, and wants to take the steps necessary to obtain court permission to move. *AK Bar Exhibit 2.* Respondent agrees to file, and tells *B.S.* to accept the job in Hawaii, which is scheduled to start April 4, 2016.

February 22, 2016. Respondent promises Wells that A.B. discovery will be completed in 1 week.

March 2016. *Respondent is having a difficult break-up with her boyfriend.*

March 4, 2016. Respondent files *B.S.*'s custody complaint.

March 7, 2016. In A.B., Respondent reports that she told her assistant to send out the A.B. discovery responses "last week," she has the flu, she will "send it today or tomorrow." *People were using her personal email address to communicate with her, an address she didn't check, but this has been straightened out.*

March 8, 2016. In *B.S.*, the court issues a standard initial Domestic Relations Pretrial Order. Respondent does not copy *B.S.* with the order nor does she explain its prohibition on taking children out of state. *B.S.* never receives any paperwork from Respondent about her case. Meanwhile, Respondent assures *B.S.* it will not be a problem to move to Hawaii April 2.

March 9, 2016. In A.B., defense counsel emails Respondent about the still missing discovery, receives no response.

March 11, 2016. *Respondent is in the emergency room from 9 to 12 noon. She is in and out of the hospital 6 or 7 times in March. She has her assistant K___ ("K") bringing her work, and works to file materials with court. K takes the B.S. motion from Respondent at the hospital, leaves to print them, returns them to Respondent to sign. Respondent believes that K files the motion in court.*

March 16, 2016. In A.B.'s case, defense counsel files a motion to compel responses to discovery.

March 25, 2016. In a telephone call, Respondent assures *B.S.* she can go to Texas and move to Hawaii. Respondent says she thought *B.S.* understood she could go.

April 2016. *First week. Respondent is sick and visits the hospital again.*

April 2, 2016. On the advice of Respondent, *B.S.* flies to Hawaii with her daughter. *B.S.* had texted Respondent repeatedly to find out if she had court permission, asking Respondent why no motion appeared to have been filed. Respondent advises *B.S.* to "just go, and it will be (Respondent's) fault not *B.S.*'s if there is a problem" and advising that the

"worst thing that could happen" would be that the court would scold and sanction Respondent, but as the attorney, it was her job to take that, it would not "hurt the person."

April 4, 2016. Respondent starts a 5 day criminal trial that requires intense preparation.

April 11, 2016. Respondent enters her appearance for A.L. defendant in custody case. Child was born drug positive and OCS assumed custody. Father has filed for sole legal and primary physical custody.

April 12, 2016. In B.S.'s case, the father files an expedited motion for B.S. to return to Alaska.

April 12, 2016. In the A.B. case, the court grants the defense motion to compel discovery.

April 14, 2016. In a phone call, Respondent advises B.S. there will be a status hearing on May 2. Respondent does not advise B.S. of the father's expedited motion for the child's return.

April 18, 2016. B.S.'s opposition to the child's father's expedited motion is due. Nothing is filed.

April 19, 2016. Judge orders B.S. to return to Alaska with her daughter.

April 15 or 20, 2016. Respondent fires her assistant K due to problems she has caused. She doesn't resume contact with K until June.

April 25, 2016. B.S. talks with her child's paternal grandmother, who says there is an order requiring the child's return to Alaska by April 25. B.S. immediately tries to reach Respondent.

End of April. In the middle of the night, Respondent's boyfriend moves out after taking money from her safe, taking her possessions and her dog.

May. Respondent moves her office.

May 2, 2016. Respondent calls B.S., and tells B.S. not to talk to child's grandmother, who is lying, Respondent has opposed the order, and B.S. should stay in Hawaii. Later that day, the status hearing is held on B.S.'s matter. Respondent arrives late for the hearing. B.S. took time off work to testify but is never called.

May 2, 2016. In A.B., defense counsel advises that initial disclosures were received, but the discovery requests from the defense still have not been provided.

May 3 – 18, 2016. B.S. repeatedly tries to contact Respondent about what happened at the May 2 hearing, but is not successful. After the status hearing, Respondent checks the file and learns that her assistant K never filed the expedited motion Respondent thought she had

prepared, regarding B.S.'s move to Hawaii. Respondent "freaked out." Respondent did not know how to deal with the error. She did not tell B.S. Respondent called B.S. about a week after the status hearing (May 9) about needing to come back, and B.S. "yelled at her" and said she wouldn't return.

May 19, 2016. Respondent calls B.S. about the interim custody hearing set for the next day. Respondent does not disclose that the father had filed for interim custody and for a writ of assistance. Respondent and B.S. discuss options for visitation. B.S. makes sure she has time off for the May 20 hearing.

May 20, 2016. B.S.'s Interim Custody hearing occurs as scheduled. Respondent does not appear. B.S. is not called to testify. She keeps trying to reach Respondent but is not successful. The court grants custody to father. Respondent states that her son turned off her alarm out of concern for her working too hard. Usually she did not have court on Friday. She did not wake-up in time for the hearing.

May 20 – 24, 2016. B.S. attempts to communicate repeatedly with Respondent, without success.

May 24, 2016. Paternal grandmother tries to make arrangements to pick-up B.S.'s daughter to return her to Alaska.

May 25, 2016. At the A.B. hearing on discovery issues, the discovery deadline is re-set for the end of July. Respondent attends, arriving late. Trial is set for May 1, 2017. Log notes show that Respondent missed 5 minutes of discussion. Respondent was only 4 minutes late. She was there for the hearing and understands what is due. She objects to Wells being served, instead of both of them being served.

May 26, 2016. Respondent texts B.S. telling her she needs to make arrangements for the grandmother to bring the child to Anchorage, but not to listen to or trust the grandmother. B.S.'s responses indicate she believes Respondent is talking about visitation. She suggests that she return to Anchorage for a visit in August. Respondent thought that her legal assistant K had sent B.S. the court orders, and that B.S. knew about them.

May 27 – June 7, 2016. B.S. cannot reach Respondent. She gets no response at all.

June. Respondent hires K back. K stays at Respondent's home for about 2 weeks, steals Respondent's debit card and crashes her car, steals money from Respondent's bank account. Respondent believes that K later hacks into Respondent's network, to change calendar dates and court dates.

June 7, 2016. B.S. becomes firmer in her texts with Respondent, stating she has a right to know what has happened in her case.

June 8, 2016. Respondent texts B.S. stating that she emailed the court order to B.S. B.S. never receives any order from Respondent. Respondent tells B.S. that she has

blocked "all client calls" on her cell, and doesn't check blocked messages, and that B.S. should communicate by email. Respondent has never responded to a single email from B.S. Respondent offered to "pay part of the tickets." B.S. assumes this means plane tickets, but the offer is unclear. Respondent believes that K copied B.S. with the orders, so their communications were confusing.

June 9, 2016. B.S. hires a new attorney.

June 12, 2016. B.S.'s new attorney gets a copy of the court order and communicates the order's requirements to B.S.

June 13 - 14, 2016. B.S. immediately returns to Alaska, leaving her new job, her belongings, car, and apartment. She has no custody or visitation when she returns to Anchorage. Over the next few weeks, Respondent does not provide B.S. file to the attorney. He "didn't need the file."

July 15, 2016. Respondent applies for replacement debit card on her IOLTA account. She had to do this because of K's theft.

July 17, 2016. Respondent obtains protective order against K. She "has no computer" and is essentially shut-down without her computer. After she gets the protective order, she experiences break-ins at her office. Respondent hires an IT consultant.

July 17 - 18, 2016. Respondent meets with police on her claim of harassment by K and allegation that Respondent's laptop has been stolen. States she has been unable to access server, email and Microsoft Exchange account. Respondent is experiencing break-ins in her network and she has no access to emails for about a month. She contacts and is working with Bar Counsel Maria Bahr. Respondent's office is shut-down and she is telling courts and D.A.s.

July 21, 2016, 11:17 a.m. In A.B., Respondent personally assures defense counsel in email that A.B.'s discovery will be provided by the end of July. She states the responses have been "finalized" and are awaiting verification and updating of records. States she was only 4 minutes late to the May 25th hearing, that she has lupus and it takes longer to get to places than usual. She was aware of the motion to compel in March, but was very ill during that time.

July 28, 2016. Wells moves to withdraw from A.B.'s case stating that A.B. was choosing to proceed with Respondent as her attorney. Judge Morse directs A.B. and Respondent to agree in writing by August 12, 2016 to Wells' withdrawal, or there will be a hearing.

July 29, 2016. Bank processes application for replacement card on Respondent's IOLTA account. Respondent signs and returns the documents to the bank. She notices that the documents have numbers different from her online accounts. From at least July - November 2016, Respondent does not reconcile her bank accounts.

August 3, 2016. B.S. files a detailed affidavit in her custody case, explaining why she moved to Hawaii without actual notice of the pretrial order, that she never received any

paperwork from her attorney about the father's motions and the court's early orders, and the advice from Respondent that she followed.

August 12, 2016. Deadline for A.B. and Respondent's response to Wells' motion to withdraw in A.B. case. Judge Morse is the judge in A.B.'s case. There is no response.

August 15, 2016. Respondent files a response to Wells' motion to withdraw from A.B.'s case, but A.B.'s signature is not provided.

August 16, 2016. In a written ruling, Judge Morse cautions that if Wells is allowed to withdraw, Respondent will be solely responsible for representing A.B. He requires a face to face hearing on August 24, 2016.

August 17, 2016. Wells is permitted to withdraw from A.B.'s case.

August 19, 2016. *Respondent's 12-year old son travels to Oregon. Respondent cannot go with him because of a trial. That trial is later cancelled.*

August 26, 2016. *Respondent's boyfriend steals her money from their joint checking account. (They had briefly reconciled after the late April break-up). Her phones and internet are shut off and her bank account is emptied.*

August 27, 2016. *Respondent's son's guitar teacher dies – he is the husband of K. He was working on an affidavit about the motion that Respondent thought K had filed, but which the guitar teacher found crumpled-up under his bed. He died before finishing the affidavit for Respondent, who is trying to prepare her response to B.S.'s Bar grievance.*

August 28, 2016. *Respondent cannot reach her son. He is not in Oregon. She believes he is missing. She has no client contacts the week her son is missing. After a week she finds him at her mother's house.*

August 29, 2016. Deadline for Respondent to respond to B.S.'s Bar complaint.

August 29, 2016. Respondent's mother files a DV protective order against Respondent stating that Respondent's son is in Washington, and needs protection because Respondent is on drugs and the tenants in her duplex are drug users. *Respondent had found out that the tenants in her duplex were on drugs, and she was evicting them and trying to turn her place into a sober living house. Mother's protective order is denied.*

August 31, 2016. Respondent states she is unable to respond to the B.S.'s grievance, requests a second extension because her son's half-sister gave him to his paternal grandmother who is refusing to return him home.

September 1, 2016. *Respondent's mother files for custody of Respondent's son. Respondent seeks protective order against her mother.*

September 2016. Respondent files for bankruptcy, hoping to avoid foreclosure on her home. On Respondent's weekend visitation with her son, he wets himself during a meltdown over his grandmother. AK Bar Exhibit 5 at 2. Respondent begins re-living the trauma she suffered as a child with her mother and suffers from depression. She visits the emergency room multiple times because of the stress.

September 2, 2016. In A.B., defense counsel files formal notice that discovery has not been provided yet and is 8 months overdue.

September 9, 2016. A.B. is ordered to pay the defense's costs of moving to compel discovery. A.B. must produce discovery by September 30. Judge Morse warns that failure to produce discovery will result in A.B. paying all attorney fees over the months of getting A.B. to respond.

September 12, 2016. A.B. is hospitalized after a suicide attempt. Her therapist's notes reference a "bad outcome" in a lawsuit. *The ruling on fees is not Respondent's fault.*

September 30, 2016. All discovery is due in A.B.'s case.

October 4, 2016. Interim custody hearing over Respondent's son proceeds over 4 days. Judge Morse rules that Respondent will retain legal custody while her mother will have primary physical custody. *Judge Morse told her she would not be allowed to homeschool her son, she is supposed to work more, with Judge Morse citing A.B.'s case.*

October 19, 2016. Status hearing in A.B. with Respondent present. She thought discovery had been sent out in early October by her assistant. Court is concerned about her reliability. She states she has been handling different matters. Court re-sets status hearing for October 20, 2016, which will be cancelled if Respondent complies. A.B. expresses concern that things are "not being done."

October 20, 2016. Status hearing in A.B., defense states that all they received from Respondent was an email saying "error message." Respondent states she has the email, court orders her to print and deliver discovery today.

November 4, 2016. In A.B.'s case, Respondent pays \$726 in sanctions. *Respondent elected to voluntarily pay Steve Wells' obligation, he had earlier told the court he would pay \$1,500. Respondent believes she did not have opportunity to respond about excessive fees, but she paid it.*

Soon after, A.B. hires a new attorney. *This was a scheme to get her to pay the sanctions, only to fire her after she paid.*

November 4, 2016. First National Bank notifies Alaska Bar of overdrawn IOLTA account. Petition at 19.

November 10, 2016. Respondent signs stipulation to substitute for attorney Jon "Buccholdt" (Buchholdt), in *Jeremy N.'s* case against the Department of Corrections. The stipulation is

filed in Superior Court, bears Respondent's signature and is on her pleading paper. Respondent's signature is on the Certificate of Service, and identifies opposing counsel by marking-out the typed attorney's name and handwriting the correct attorney's name. It represents that *Jeremy N.* has "consented to the substitution of counsel." *Jeremy N.*'s trial is scheduled for March 20, 2017.

November 11, 2016. Respondent sends a series of negative texts to A.B., accusing A.B. of personal betrayal and alleging that A.B.'s new attorney is lying to her. Respondent had called A.B. because she was concerned about her, and instead a cop calls her back.

November 16, 2016. A.B. files her motion for substitution of counsel, which is granted December 19, 2016. *"I paid the attorney's fees out of the goodness of my heart, and then I got fired, I was still asking my client for documents in the last email I sent her, and the verification page."*

November 16, 2016. *Respondent has son for visitation, and she keeps him overnight because she feels he is in danger.*

November 16, 2016. A.B.'s new attorney files an affidavit supporting removal of Respondent as counsel for A.B., documenting Respondent's continuing attempts to contact A.B. despite A.B. blocking Respondent, and the attorney's unsuccessful attempts to reach Respondent through email, telephone and voice message. *AK Bar Exhibit 3.*

November 17, 2016. Court modifies Respondent's visitation rights, requiring supervision. *"I walked in my office, put my box – my briefcase down and walked out, and I didn't go back for two and a half months. That's when I called the bar association and that's when I tried to turn in my license. ... I said I didn't want to be a lawyer anymore."*

November 30, 2016. In *Jeremy N.*'s case, Judge Pfiffner signs the order authorizing Respondent to substitute for *Jeremy N.* Clerk serves Respondent with the order.

Early December 2016. *Respondent is diagnosed with PTSD relating to her traumatic childhood. This PTSD had not affected her ability to function until her mother obtained custody of her son. AK Bar Exhibit 5 at 2. She had been diagnosed with PTSD in law school. When she was 13 she thought her sister was dead, there was blood in her room. PTSD did not affect her ability to practice law. She was also diagnosed with ADD in law school.*

December 1, 2016. In A.B., the court grants new attorney's Motion for Substitution of Counsel.

December 8, 2016. Bar requests that Respondent respond within 10 days on the NSF checks on her IOLTA account, sending her the NSF notices. Respondent does not respond.

December 11, 2016. Deadline for Respondent to turn over A.B.'s files per Judge Morse's order. No files are produced.

December 19, 2016. A.B.'s new attorney requests a scheduling conference because she has not received the file from Respondent.

December 27, 2017. In the *Jeremy N.* case, the defense moves to compel disclosure of attorney contact information because the defense attorney cannot reach Respondent. Status conference is rescheduled to January 13, 2017. Parties are ordered to meet pre-trial deadlines.

January 3, 2017. Notice of Insufficient Funds on IOLTA account. Bar is notified – account is \$436.12 in arrears.

January 6, 2017. Notice of Insufficient Funds on IOLTA account

January 9, 2017. Bar is notified of more checks drawn on account, account is now \$629.11 in arrears.

January 13, 2017. Respondent's IOLTA account is now \$847.11 overdrawn.

January 13, 2017. The date of *Jeremy N.*'s status conference. Respondent does not appear. Court compels disclosure of attorney contact information. Court orders that pre-trial deadlines be met by 4:30 p.m. on January 30, 2017

January 17, 2017. Trial date in Abbey *L's* custody case. Neither *Abbey* ; nor Respondent appear. *Abbey* ; is in custody due to a positive heroin test. Father's attorney states attempts to reach Respondent have been unsuccessful, mail has been returned and her phone is disconnected. The number that is on Respondent's website is not taking calls or messages. Court states frustration over loss of a trial day. Plaintiff is upset. Trial is re-set for March. *Respondent thinks someone altered her calendar. If Respondent appeared, she would have had to disclose Abbey's situation, and Abbey was better off if Respondent didn't appear.*

January 18, 2017. Respondent moves to reopen her Chapter 13 bankruptcy case. *AK Bar Ex. 5.* Her house has been sold, but the notice may have been defective.

January 24, 2017. In Abbey *L's* case, the judge grants interim custody to father.

January 26, 2017. New trial date set for Abbey *L's* ; permanent custody hearing, to be held March 16, 2017. *I didn't even want to do that [trial] because I couldn't get a hold of her...I was going to withdraw, and then she finally showed-up.*

January 30, 2017. Pretrial deadlines run in *Jeremy N.* case.

February 2, 2017. New A.B. attorney still has no file from Respondent.

February 3, 2017. Bar opens consolidated complaint on IOLTA account due to lack of response from Respondent, requests response from Respondent. (Notice is returned to the Bar in April as unclaimed, unable to forward).

February 4, 2017. A.B. obtains file from Steve Wells.

February 4, 2017. Respondent meets with Bar Counsel. They tell her she writes well and they will delay her bar complaints while Respondent works on her bankruptcy, custody, and IT issues. This was when she tried to "turn in her license." She told them "I didn't want to be a lawyer anymore. That I couldn't defend myself in any of these complaints. I couldn't even look at them [due to her mother having physical custody of her son]." "They never gave me a deadline. I didn't think it was that big of a deal."

February 9, 2017. In A.B. status hearing, the court addresses Respondent's continuing failure to turn over A.B.'s file to her new attorney. States he will issue a bench warrant if Respondent doesn't appear on February 21. Respondent never had a file to turn over. Steve Wells had a file with everything in it. She was basically A.B.'s only contact and she spent hours on the phone with her, whereas Steve Wells rarely communicated with A.B.

February 13, 2017. In Jeremy N., the defense moves to vacate trial and to dismiss for failure to prosecute. Respondent does not oppose motion.

February 21, 2017. A.B. status hearing set by Judge Morse to address Respondent's turning over the file. A.B.'s new attorney appears, advises there has been no contact from Respondent. Wells agrees to send his file. A.B. is taking "other action" against Respondent. A.B.'s attorney concludes that there is probably nothing in Respondent's file to turn over. Court states that he doesn't "know if it is possible to get information from her." (Log notes). Respondent does not appear.

March 7, 2017. The Court dismisses Jeremy N. case. Subsequently, Jeremy N. reports he is unable to obtain his file from Respondent.

March 2017. Respondent learns her son is sleeping on couch with his grandmother. This is upsetting. She is preparing for the Abbey L. custody trial. This is the case that finally gets her out of the house.

March 16, 2017. Trial date for Abbey L.'s custody case. Respondent appears but provides no witness list or trial brief, stating she is not getting emails and has had problem with her server. She has been having trouble communicating with Abbey. The court cautions Respondent about her failure to meet timelines, notes her claimed shoulder injury, and warns Respondent she is on "thin ice" and needs to have some help, the judge knows she is having problems in other courtrooms. Court starts hearing testimony from plaintiff. Trial is continued until March 23.

March 23, 2017. Abbey L.'s trial continues. At the end of trial, the Court invites a change of custody motion from Abbey to be filed soon. At the end of the trial, "the judge said that my work was why she was willing to modify custody and give Abbey 50/50". For the next several months, through September, Abbey is asking Respondent to file that motion. Nothing is filed.

March & April 2017. Respondent's boyfriend is violent toward her. He leaves in mid-April. He broke her phones and she did not have a working phone, he caused her to miss work appointments and court-ordered appointments for her custody case. Resp. Exhibit 5.

April 4, 2017. After notice of Bar's charges on IOLTA account is returned as "unclaimed," Bar calls Respondent to advise that she has a duty to respond to the IOLTA requests. This responsibility is also discussed in a meeting.

April 14, 2017. *Jeremy N.* files grievance against Respondent with Alaska Bar because his case against the Department of Corrections and 9 state employees had been dismissed. Respondent was "unaware" that she had become counsel on the case. She personally did not file an appearance in his case, never met him, never spoke to him, never filed any papers, and never served opposing counsel with anything.

May 4, 2017. Respondent's visitation with her son is terminated.

May 19, 2017. In the Abbey L. case, final judgment is issued on custody, with the court noting she has not received a motion to modify custody since the trial occurred in March.

June, 2017. Respondent accepts *H.R.*'s case.

June 12, 2017. Abbey L. contacts Respondent, Respondent says she didn't file today but will "file them in the morning with the notice." *"I thought that the engagement letter actually terminated my representation after trial...I wanted to meet with her before I'd file the motion to modify. I didn't think that I was actually attorney of record because when you do a trial and it's done, it's over."*

June 13, 2017. Respondent tells Abbey L. she filed the papers. She later advises Abbey that she filed a notice, not a brief.

June 16, 2017. Respondent advises Bar in a Transmittal Memo that she is unable to complete her response on the IOLTA NSF issues on June 14 as planned, because of meeting with federal agents for another matter. Her response is "almost complete" and she expects to file it "by the end of business today" or by Monday, June 19, 2017. *AK Bar Exhibit 6.*

June 16, 2017. Date of unsigned transmittal memo written by Respondent, indicating she returned one banker's box of *Jeremy N.* files to *Jeremy N.*'s former lawyer "Buccholdts" on "June 16, 2016". (See January 11, 2018, when she submits this transmittal, unsigned by any recipient, to the Bar). The memo asks Buchholdt to provide documentation about the stipulation to substitute and records of Barber's communications with *Jeremy N.* and to put all communications in writing, and states the matter may need to be mediated with the Bar Association. Respondent discovers that when she and Barber argued in November 2016 about her refusing to take *Jeremy N.*'s case, Barber left the box of *Jeremy N.* files in her office, without her knowledge.

June 19, 2017. Respondent does not respond to IOLTA overdraft issue. *This was only a self-imposed deadline, and Respondent wasn't required to meet it.*

June 20, 2017. Respondent appears for Adele L, client Abbey L's mother, in the probate case of Adele's deceased partner. Adele wants to become the personal representative although she has no statutory preference over the decedent's son. The case was opened in March and the son's attorney is concerned about further delay. Adele did not mention a will in March, now she claims there is a "draft will" that should be considered. Respondent says she can provide something in 2 weeks. *Respondent is suspicious that Adele is not being honest.*

June 22, 2017. Respondent tells Abbey L she is filing a new motion tomorrow, implying that there had been a motion previously filed.

June 26, 2017. Respondent tells Abbey L she is going to file papers.

June 30, 2017. Respondent tells Abbey L she is filing the papers, and will email them to Landroche.

July 2, 2017. Abbey L asks Respondent if she has filed anything. Respondent represents that "she filed it earlier."

July 6, 2017. Deadline for Respondent to make a showing that Adele L may be able to serve as personal representative of her former partner's estate, or to give notice that she will not be filing a brief. Nothing is filed. Adele is unable to reach Respondent from July to August, 2017.

July 7, 2017. Respondent tells Abbey L that she will remind herself with a sticky to file Abbey's papers. She has been in a car accident – "T-boned," and comments that Abbey and her mother must be "tag teaming her."

July 9, 2017. Respondent tells Abbey L she is submitting the custody papers.

July 10, 2017. Respondent tells Abbey L she tried to send an email with the papers earlier, she will try again.

July 11, 2017. After Abbey L checks Courtview for filings, and finds none, Respondent texts her, stating she was waiting for Abbey to take the papers to the court. Respondent never asked Abbey to do this.

July 13, 2017. In Adele L's case, Respondent files a late motion to accept a brief, but fails to include the brief.

July 24, 2017. Court denies Adele L's motion for extension, because the supporting brief was not attached.

July 26, 2017. Abbey L asks Respondent if she can get the papers to file.

July 27, 2017. By checking CourtView, Adele L learns of Respondent's failure to file a brief.

July 30, 2017. Respondent files an entry of appearance for Adele L

August 24, 2017. In a handwritten motion Adele L moves to terminate Respondent as her attorney because of multiple unsuccessful efforts to communicate with Respondent (Facebook, text messages, phone, emails and office visits). Counsel for the opposing party will not speak to Adele L, and has had her own unsuccessful attempts to reach Respondent (July 13, 28, August 31, Sept. 6, and Sept. 25 via email or telephone, and by U.S. mail returned as undeliverable) with her last contact with Respondent occurring June 20, 2017 (the date of the last hearing in the matter).

August 31, 2017. Adele L has contact with Respondent, with Respondent claiming to have made multiple attempts by call or text to reach Adele. Adele believes this is false.

September 11, 2017. Abbey L, after repeated lack of response from Respondent, tells her she wants the papers filed "this week!" Respondent says to call her. Respondent then promises to file the papers again. *Respondent is messaging Abby on Facebook.*

September 18, 2017. Abbey L is still trying to find out if her paperwork has been filed. Respondent is silent.

September 19, 2017. Respondent claims to Abbey L that the papers are ready, but Abby must review before filing, Respondent will email them.

September 22, 2017. Respondent claims her phone was off while Abbey L was texting. Does not answer questions about whether papers have been filed. More texts over several days with evasive answers.

September 26, 2017. Respondent tells Abbey L that she will not file papers until she gets verification, then suggests she has already filed papers. *Abbey* reminds Respondent she has been clean since January 12 and really needs to change custody.

September 26, 2017. In the *Jeremy N.* grievance, the Bar sends Respondent a copy of the substitution of counsel pleading that Respondent signed, which Respondent had earlier denied filing, and asks for her response.

October 1, 2017. Abbey L asks again if Respondent has filed her papers, asks her to remove herself if she hasn't filed. *Respondent messages Abby on Facebook stating that Abby is ignoring her calls, why won't Abby call her.*

October 2, 2017. Bar notifies Respondent that due to lack of responses on the IOLTA NSF notices, the Bar has opened a consolidated charge (4 grievances). Failure to respond by October

25, 2017 will result in the charges being deemed admitted, and a Bar petition for administrative suspension under Rule 61(e). The Discipline Section Legal Secretary reminds Respondent that she is required to keep the Bar informed of her mailing address and phone number.

October 4, 2017. In the *Jeremy N.* Bar complaint, Respondent receives the Bar's request to respond about the substitution of counsel she had signed to replace Jon Buchholdt. (Respondent responds by letter January 11, 2018).

October 6, 2017. Respondent messages Abbey *L* on Facebook that she will withdraw if *Abbey* will not answer her phone. Respondent "cannot read these messages right now" – she is in meetings.

October 7, 2017. *Respondent assaulted.*

October 9, 2017. On Facebook, Respondent messages Abbey *L* cursing and claiming that *Abbey* is not answering her phone. *Abbey* responds that she has "no missed calls". They arrange to meet around 7 – 7:30 p.m. but Respondent reports car trouble. *Abbey* waits until 10:00 p.m. with no appearance by Respondent.

October 10, 2017. Respondent advises Abbey *L* via Facebook that she is working on the filing and will go over what she has drafted. No filing yet.

October 12, 2017. Abbey *L* moves to terminate Respondent as her attorney. She describes Respondent's false assurances and long delays, lack of response. She has used Facebook messaging, texts, and phone calls to try and reach Respondent. The process has been very stressful for several months.

October 16, 2017. Respondent requests extension of time to respond to *Jeremy N.* Bar grievance, because she was assaulted. She needs a few days.

October 19, 2017. Respondent sends negative messages to Adele *L* ; who again is asking Respondent to withdraw.

October 19, 2017. On Facebook messenger, Abbey *L* : and Respondent are arguing, *Abbey* complains that for months Respondent has done nothing on the motion. Respondent says she hasn't been paid. Abbey responds that Respondent told her she was volunteering to work for free. Respondent claims that Adele *L* agreed to pay Abbey's fees but hasn't paid a dime, Adele was supposed to pay for *another child's* criminal case as well. Respondent claims she did the "motion to modify" a month ago.

October 22, 2017. Date of meeting set for Respondent to sign withdrawal papers in Adele *L's* case. Respondent does not appear. Afterward, Respondent texts and calls *Adele* , screaming and making abusive comments.

October 24, 2017. Adele *L* files Bar complaint. *Respondent asserts that Adele's daughter, Abbey, made her mother file the bar complaint.*

October 24, 2017. Respondent's mother files for permanent custody of Respondent's son.

October 25, 2017. This is the deadline set for Respondent's response to the IOLTA NSF complaint. No response is received.

October 30, 2017. Court grants Adele L's motion to terminate Respondent as her attorney.

October 30, 2017. Judge Lamoureux removes Respondent from representing Abbey L. The order notes that she is sending copies of Abbey's motion to Bar Counsel Nelson Page. The motion contains Abbey's detailed log of her attempts to reach Respondent, and Respondent's false assurances.

November 22, 2017. Respondent misses the deadline to respond to her mother's motion for permanent custody of her son. She had asked to respond by November 20, 2017, according to the Court's earlier order.

November, 2017. Respondent's storage unit is auctioned. Adele L is concerned that stored boxes may contain legal files for her case and sends letter to the Bar Association. States she has never received her file despite contacts with Respondent. Bar contacts Respondent, who states that the boxes relate only to her own custody litigation. *Adele lied to the Bar. The person who bought the storage unit was able to provide access to Respondent, who later retrieved her belongings.*

November 29, 2017. *Respondent loses legal custody of her son to her mother.*

November 30, 2017. Meeting with Bar Counsel – Respondent agrees to provide her responses by December 4. *They were concerned about Respondent's mental stability. She thought the Bar complaints were being stayed so she could focus on her bankruptcy and custody case.*

December 4, 2017. Deadline for Respondent's responses to Bar. There is a meeting with Bar Counsel and Respondent, but nothing is provided. *Resp. Exhibit C.*

December 7, 2017. Bar writes to Respondent stating that her responses were to be provided by December 4. Need to have responses from Respondent by December 14.

Mid-December– Mid- January. *Because a DA accused her of being high in court, Respondent voluntarily meets with the Lawyers Assistance Committee. Committee requires several time consuming tasks.*

December 18, 2017. In another meeting with Bar Counsel, Bar Counsel extends Respondent's deadline for providing mandatory responses to January 2, 2018.

December 18, 2017. Presiding Anchorage Superior Court Judge Morse writes the Bar about Respondent, citing concerns and observations in his courtroom and describing similar concerns

from other Superior Court judges. He notes that the problems did not appear to be temporary and "there was little, if any, improvement in her performance as an attorney." AK Bar Exhibit 1. *Judge Morse's letter is untrue because she was untimely in filing motions only 2 times, and had good cause. She was late only 4 minutes because of vehicle problems. She was appropriate, not inappropriate, in her court appearances for her son's custody case. She was resolving her problems by dropping clients. She didn't lie about her medical diagnosis (lupus) but decided not to pursue the diagnosis because she felt Judge Morse was going to treat her badly because of it. In the A.B. case, she was concerned about her client's honesty. In a criminal defense case, she was assaulted on the way to the courthouse for a deadline. For the Abbey L. missed trial date, she suspects that her assistant changed the calendared date to a week later and that's why she did not appear at one trial in January. She did appear at the rescheduled custody trial in March. B.S. was not cooperative when opposing counsel asked for B.S.'s travel address in Texas. In the H.R. case, there was only one order to show cause against her (not two) and she was in the hospital then, not because of a car accident but because of her kidneys, and she read her hospital bracelet into the court record to prove it.*

December 18, 2017. Bar extends response time for IOLTA issue to a "final deadline" of January 2, 2018. Bar makes clear Respondent must "turn in her responses" or the charges will be deemed admitted. December 20 is the deadline. (The deadline is later extended to January 4). AK Bar Exhibit 8.

December 22, 2017. Bar Counsel emails Respondent to ask if she is interested in disability status under Bar Rule 30(a)(3), explaining that the Bar will file a motion for interim suspension if she chooses not to transfer to disability status. Resp. Exhibit D. *Respondent spoke with her counselor who convinced her not to take disability status.*

January 2, 2018. Deadline for Respondent's responses to Bar grievances. Nothing is received.

January 4, 2018. Respondent does not believe the proposed stipulation the Bar has offered her for taking disability status is correct. She will not agree to false statements.

January 5, 2018. Bar files a motion to suspend Respondent from practice, pending Bar disciplinary action.

January 11, 2018. Respondent files denial of IOLTA issue, 9 days late. Alleges that her employee (presumably K) stole her credit card and took \$3,000 from her checking account in July 2016. She denies any misuse of client funds, stating that the last of her client funds were expended in June 2016. Respondent claims the bank made an error issuing a debit card on her IOLTA account and that her general deposits were going to the IOLTA account instead of her general account. She alleges that FNBA should not have done what it did, and other banks would not have issued a debit card despite her giving her IOLTA account number on the application.

January 11, 2018. Respondent delivers response to Bar regarding the Jeremy N. grievance (response was due in October). Now, Respondent admits she signed the substitution of counsel, but states it was an error, she intended to sign papers to enter an appearance in a criminal case

against Jonathan N. She alleges that John Buchholdt's paralegal doctored the pleading.² Bar Counsel searches and finds no entry of appearance by Respondent for Jonathan N. Respondent provides a transmittal memo (unsigned) indicating that she returned a box of files to ~~Jonathan's~~ former lawyer in July 2017. *She couldn't take on the N. case on the eve of trial. She told the paralegal that, and he became angry. She crossed out the first page on that substitution and wrote notes on it and someone altered the certificate of service. She thought she was signing the stipulation for Jonathan N. Later on she decided not to take on that case.*

January 16, 2018. Judge Morse denies motion filed by Respondent to modify custody order in her son's case. *AK Bar Exhibit 4.*

THE HEARING AND EVIDENCE

In general, Respondent denied that she committed the violations alleged in the Petition, but avoided offering fact-specific testimony or documentary evidence in response to the charges. She was significantly more detailed in providing dates and descriptions about her personal issues, and reported that she generally has a good memory.

Respondent testified on her own behalf, and called two witnesses, her best friend Karin Gustafson, and former Bar Counsel Maria Bahr.³ Ms. Gustafson testified that Respondent's family matters seriously and negatively impacted Respondent from late August 2016 through 2017, with definite improvement by the time of the hearing. Ms. Gustafson attributed the improvement to Respondent's resilience. Much of Ms. Gustafson's testimony involved retelling events that Respondent had described to her. She gave her opinion that Respondent was an exceptional attorney who had obtained good results in several criminal cases. Ms. Bahr affirmed certain contacts with Respondent, including Respondent's report of theft and hacking, and her general advice to respond to such events by contacting law enforcement and technicians.

In her defense, Respondent disclosed that in November 2016 she shut her office doors and performed no legal work for clients for "two – three months" in the winter of 2016-2017, emerging to prepare for Abbey L custody hearing only in March 2017. This is a

² This paralegal apparently misspelled Jon Buchholdt's name the same way that Respondent usually did – even though he worked for Jon Buchholdt. Respondent's witness Gustafson gave another version of the stipulation filing: Respondent told her that she had drafted a stipulation in advance of agreeing to represent ~~Jonathan~~ and someone got the paperwork because it wasn't "locked down," and then filed it.

³ Respondent did not list Ms. Bahr on her first, amended, or final witness lists. Her final witness list identified 4 witnesses, compared to the 62 on her amended list. Two clients she intended to call were not available.

period of 4 months. Overall, she described late 2016 to 2017 as a year of crying every day, seeing her counselor, and withdrawing from her caseload of 66 clients, ending up with only 3 or 4 cases/clients in 2017.

The timeline confirms that Respondent abandoned her practice in the winter of 2016-2017. For example, she missed court-ordered status hearings in February (Jeramy V.) and a January trial (Abbey L.). But problems continued through 2017. Respondent took at least two new cases in 2017: H.R. and Adele L. Respondent cited the H.R. case as a case she took because H.R. begged her to represent him, yet Judge Morse's letter refers to her role in the H.R. case as a matter of concern for the Superior Court, due to two orders to show cause against Respondent. In Abbey L.'s and Adele L.'s cases, Respondent continued to miss deadlines, ignore communications from her clients and opposing counsel, while promising to complete necessary work. Her excuses of computer problems, domestic violence, and injury/illness continued. She was still embroiled in her own custody case through January 2018.

In Abbey L.'s case, Respondent failed to file the motion to modify custody that should have been filed within a few weeks of the March trial. Abbey L. filed a detailed recitation of all the times Respondent said she had or would file a motion to change custody, but in fact did nothing and filed nothing. As clients pressed her, Respondent became elusive. Abbey L.'s experience was remarkably similar to B.S.'s experience a year earlier: Respondent said she was preparing or filing a motion, but nothing showed on Courtview. By October 2017, Respondent was accusing Abbey of not paying for services and refusing to answer her phone.

When grievances were filed, Respondent retaliated. She yelled and screamed at Adele L., and was emotionally abusive toward A.B. When clients became concerned about lack of action or contact, Respondent blamed the clients themselves for the lack of communication: In 2016, B.S. was not supposed to be texting or phoning her. In 2017, Adele L. was not responding to Respondent's multiple attempts to reach her. Also in 2017, Abbey L. had paid her nothing, was refusing to answer her phone and refusing to meet with Respondent. Yet each of these client witnesses provided persuasive evidence of Respondent's negligence and unavailability. Abbey L. logged her unsuccessful efforts to reach Respondent, when she filed her handwritten petition to remove Respondent as her

attorney. Adele L documented and the opposing party's attorney stated on record that Respondent was out of communication.

Respondent took little responsibility for the events leading to the various complaints. She blamed others for the neglect her clients suffered, leveling allegations against her co-counsel, clients, her employee K, another attorney's paralegal, judges, district attorneys and Bar Counsel. She offered no explanation why these individuals or groups would make unfair accusations or act unethically toward her. None of the subjective speculations or beliefs offered by Respondent are supported by documents or witnesses. What is undisputed is that Respondent's clients had clear legal needs they wanted and needed Respondent to fulfill. Abbey L, Adele L, Jeremy N., and A.B. had no ulterior motive for complaining about Respondent. They were clearly harmed and frustrated by Respondent's promises of action and failure to meet those promises.

At the end of the hearing Respondent noted she had made more mistakes than she realized before. She asked that she be suspended rather than disbarred. One of the mistakes Respondent mentioned was that she took too many cases, sometimes multiple cases for one individual, and that she had 66 active clients in the fall of 2016. The Committee agrees that Respondent appears to have been overwhelmed by personal life events and her legal practice by early 2016, if not before. It is unclear when she realized she could not handle her caseload, since she took 2 new cases in 2017, represented Abbey L through October 2017, and by January 2018 had accepted a third client and was reportedly going back to the jail and picking-up new clients. The treatment of Adele and Abbey L in 2017 is not explained by Respondent's caseload.

Significantly, during the period of April 2018 – January 2019, Respondent's only client was herself. Respondent was weeks late in responding to the Petition. Her briefings struggled in organization and coherency. The first hearing date was continued based on her slight evidence of health issues. Her initial witness list contained 60 names, triggering a motion from Bar Counsel. Respondent was 9 days late in offering her revised witness list (which eliminated 58 names). She was late to the courthouse when the hearing was set to start, and not by just a few minutes. Respondent told the Committee she was calling two defense witnesses, but ultimately reported that her witnesses were available. She attempted to subpoena Judge Morse for the second

hearing day in January, but missed the process servers' time window. Her personal testimony offered recollections that were inconsistent, uncorroborated and ultimately not credible.

Accordingly, the Committee has little foundation for concluding that Respondent's ability to manage her schedule, caseload, or evidentiary presentation has improved since 2016 and 2017.

SANCTION RECOMMENDATIONS

The appropriate sanction for Respondent's misconduct is determined by reference to the American Bar Association Standards for Imposing Lawyer Sanctions (1986) ("ABA Standards"). The Alaska Supreme Court is "guided but not bound" by the ABA standards, and will rely on applicable case law and other authorities. *In Re Schuler*, 818 P.2d 138,139 (Alaska 1991).

Under ABA Standard §3.0, the Committee answers the following questions before imposing sanctions after a finding of lawyer misconduct:

- What ethical duty did the lawyer violate?
- What was the lawyer's mental state?
- What was the extent of the actual or potential injury caused by the lawyer's misconduct?
- Were there aggravating or mitigating circumstances?

Based on the admitted facts, Respondent breached *duties to her clients* repeatedly, including the duty of diligence, the duty to communicate candidly and promptly, and the duty to avoid conflicts that impair the lawyer's independent judgment. She was obligated to maintain records relating to client accounts, which she did not do. As a result, she was using her IOLTA account as her general business account, and overdrew it. Subsequently, she entered into a payment agreement with her bank to pay off the overdraft. Had she deposited client funds into the account, they would presumably have been applied to her general business activities.

Regarding *duties owed to the legal system* as an officer of the court, Respondent demonstrated multiple failures to expedite litigation, and was not candid about her missed deadlines, lateness, and failures to appear.

Respondent breached *duties to the profession* by failing to turn over client files, failing to timely respond to Bar Counsel, attempting to mislead Bar Counsel in the N. case, and failing to timely answer the Petition for Formal Hearing.

The Committee must review the lawyer's mental state and consider whether the lawyer acted intentionally, knowingly, or negligently.

"Intent" is defined by the ABA standards as the "conscious objective or purpose to accomplish a particular result."

"Knowledge" is the "conscious awareness of the nature or attendant circumstances of the conduct but without the conscious objective or purpose to accomplish a particular result."

"Negligence" is the "failure of a lawyer to heed a substantial risk that circumstances exist or that a result will follow, which failure is a deviation from the standard of care that a reasonable lawyer would exercise in the situation."

The type of injury caused by the lawyer's misconduct must then be considered. "Injury" under the ABA Standards is "harm to a client, the public, the legal system, or the profession which results from a lawyer's misconduct," ranging from little or none to serious. "Potential injury" is harm that is "reasonably foreseeable at the time of the lawyers' misconduct, and which, but for some intervening factor or event, would probably have resulted from the lawyer's misconduct." The extent of the actual or potential injury caused by Respondent's misconduct must be evaluated.

After considering the above factors, the Committee will refer to ABA Standards to identify the appropriate sanction for the misconduct. Finally, the Hearing Committee must consider whether the applicable case law and aggravating and mitigating factors justify the imposition of sanctions different from the base sanction.

The Violations Committed By Respondent

The Petition sets out the details of each grievance, along with exhibits that provide support and additional context. Because the Petition is deemed admitted, repeating the Petition allegations is unnecessary. The Committee finds that the Petition fairly establishes the facts supporting multiple violations. As importantly, the Respondent's attempts to rebut the Petitioner's clear and convincing evidence tended to confirm Petitioner's conclusion that Respondent presents a significant risk to the public if she continues to practice. The Committee refers to certain conduct as particularly egregious in order to explain the severity of the sanction recommended.

B.S. hired Respondent for the express purpose of obtaining court permission to move to Hawaii with her 3-year old daughter. She already had a difficult

relationship with the child's father. After filing the initial custody pleading, Respondent advised B.S. to leave for Hawaii, and to take her daughter out-of-state in violation of the court's Domestic Relations Initial Order – an order Respondent never copied to B.S. In fact, B.S. never received any court orders or motions from Respondent.

Respondent told B.S. not to worry about the fact that she lacked court permission to leave Alaska. When B.S. expressed concern about moving to Hawaii, Respondent assured B.S. that the worst thing that could happen would be that Respondent would be chided by the court.

When the father filed a motion for the child's return, when the court ordered the child's return, when Respondent failed to appear at the interim custody hearing, and when the father obtained interim custody, Respondent did not notify B.S. or explain what B.S. needed to do. Yet Respondent did take the time to tell B.S. not to listen to the child's grandmother, who was aware of the court's order to return. Respondent advised B.S. to stay in Hawaii – again, in direct violation of explicit court orders that Respondent (not B.S.) had received. This was a clear attempt to cover-up Respondent's errors and omissions.

Respondent suggested that her legal assistant must have sent the relevant April 2 texts to B.S., using the office computer or Respondent's phone, and that Respondent would not have sent the April 2 texts that encouraged B.S. to leave for Hawaii. She further accused K of failing to file a motion that Respondent had prepared to obtain court permission for B.S. to move to Hawaii. She alleges that the motion was later found discarded under K's husband's bed, but he died before he could provide evidence to the Bar. The Committee finds these speculations to be attempts to distract the Bar and the Committee from assessing Respondent's pattern of improper and reckless advice that B.S. ignore clear court orders.

When B.S. realized Respondent was evading attempts to communicate, Respondent answered by making a vague offer to partially pay for "plane tickets", and claiming that B.S. was "threatening" her. She blamed B.S. for trying to contact her by text or phone, claiming she had blocked B.S.⁴

⁴ Respondent testified that she changed her policy and K was supposed to send out an email telling clients that Respondent was not going to be responding to texts. She did not check to see if K actually did this. K was let go by April 25, and Respondent continued to respond to some of B.S. texts between April 29, 2016 – June 6, 2016. Only on June 8, 2016 did Respondent text B.S. to say that she had blocked "all of her clients" from her cell phone. B.S. had already found a new attorney.

Even if Respondent's speculations had a factual basis, allowing Respondent to blame K for texts on April 2, Respondent fired K on April 15 or 20, 2016, not allowing her back to work until after B.S. had hired new counsel.⁵ From April 20 until June 9, the egregious defaults in B.S.'s case were Respondent's alone, and are explained only by avoidance and a deliberate refusal to mitigate her serious professional errors.

A.B.'s Case. In 2016, Respondent performed little work, with none of it on time, after making repeated promises to the court, her co-counsel, and opposing counsel. She admits she knew of the motion to compel in March, 2016, yet continued to blame Steve Wells for not serving her or effectively communicating with her. She gave assurances and stated the discovery was prepared and/or already sent, blaming her assistant. The court held several hearings to address these prolonged delays. Respondent told opposing counsel that she was ill back in March, and promised to comply soon, only to renege again. The client herself expressed concern in one of the hearings that things "were not getting done." Respondent continued to represent A.B. after Wells withdrew, knowing that she would then be solely responsible for representing A.B., and despite Judge Morse's stated concerns. A.B. attempted suicide in September 2016 after being ordered to pay part of the defendant's cost of obtaining discovery. Shortly afterward, when Respondent learned that A.B. had hired new counsel, she attacked A.B. in a series of texts, accusing her of personal betrayal and of causing Respondent to risk losing her license, among other things. Respondent continued to contact A.B. after she knew A.B. hired new counsel, in order to castigate A.B. She failed to transition the file or withdraw, and claimed that there was nothing in the file that Wells did not have. But she also testified that Wells never communicated with A.B., and Respondent spent hours on the phone with A.B. Respondent's violations of ARPC 1.3, 1.4 and 3.2 and her personal conflict of interest in taking on A.B.'s representation after Wells withdrew, despite Judge Morse's warning (1.7(a)(2)) prove that she put her personal interests ahead of A.B.'s.⁶ She knowingly failed to take reasonable steps to protect A.B.'s interests after termination of her representation, in violation of ARPC 1.16(d).

⁵ According to Respondent's statements, she knew that K had failed to file a critical motion in B.S.'s case by May, 2016, among other errors. When she rehired K, she would have had an even heavier burden of monitoring K's work.

⁶ A.B.'s case appeared to be potentially lucrative, perhaps explaining Respondent's anger when the client fired her in favor of another local attorney, and Respondent's insulting language about that attorney.

Jeremy N. After entering an appearance for Jeremy N. on November 10, 2016, Respondent did nothing on his case. The apparent reason for this inaction was Respondent's decision to suddenly shutter her practice later in November for "2-3 months", after the court required that her visitation with her son be supervised on November 17, 2016. Respondent referred to shutting the doors of her office as a "leave of absence" or "vacation" in some documents.

But Respondent gave a different explanation to Bar Counsel. Respondent provided two stories to explain her neglect of Jeremy N. At first, she denied agreeing to represent Jeremy N. or filing the stipulated substitution of counsel. Second, after evidence of her signature on the substitution pleading was supplied, she speculated that a paralegal from the original attorney's office altered the stipulation to make it appear on her pleading paper. She presented similar contentions at the hearing. Respondent admitted having a box of Jeremy N.'s files, but claimed that the paralegal left the box in her office (November 2016 – July 2017) without her knowledge. Despite being served with documents in Jeremy N.'s case, she took no action in time for Jeremy N. to avoid dismissal on March 7, 2017.

Abbey L. Respondent missed the first trial date in January 2017, claiming that K must have changed the calendared trial date. She was ill-prepared for the rescheduled March trial. At the end of trial, the court invited Abbey and Respondent to file a modification of custody soon, apparently because Abbey was participating in certain programs. Between March and October 12, 2017 nothing was done, despite repeated and urgent entreaties from Abbey to Respondent. After Respondent repeatedly misrepresented what work she was accomplishing, Abbey asked Respondent to remove herself as counsel. Respondent again failed to respond. Abbey was forced to file a handwritten motion to remove Respondent using a court form. Again, Respondent did not cooperate with the transition. Respondent violated ARPC 1.3, 1.4, and 3.2.

Adele L. In June, 2017, Respondent attended one hearing, promised to meet a short deadline that was important to avoid further delay, and then dropped-out of communication completely. Respondent surfaced only to request more time, to enter her formal appearance and to send negative messages to Adele. By entering her appearance, Respondent prevented Adele from communicating with the opposing party about the case, frustrating progress further. When Adele sought to remove Respondent after a prolonged inability to reach her,

Respondent again failed to cooperate or to return the file. The court had to order her removal in October 2017.

IOLTA Account. While a single violation might be an oversight, the repeated overdraft notices show an abandonment of Respondent's professional obligations from July 2016 until January 11, 2018, when Respondent finally submitted her written response to the Bar. At the hearing, Respondent continued to blame the problem on her bank, arguing that banks should never issue a debit card on an IOLTA account, even if she did give her IOLTA account number to the bank when she applied to re-establish her accounts in July 2016. Respondent provided no ledgers or bank statements to show that she was following fiduciary practices for her law office trust account. She violated ARPC 1.15(a) by not having client account records for any period of time, and ARPC 1.15(f)(4) by failing to take sufficient measures to identify errors and promptly resolve them.

Lack of Candor. Respondent demonstrated lack of candor with the Committee in her arguments and pleadings, in a manner that echoes her treatment of Abbey *L* and *B.S.*

She claimed that the Bar never gave her a deadline to respond to certain grievances, until the January 2018 deadline. *See* Clarification Motion at 4. When similar arguments were made at the hearing, Bar Counsel submitted documentary evidence of multiple deadlines the Bar established before January 2018. Three of Respondent's own exhibits as well as her own testimony disproved her allegations of "no deadline." Respondent's denial or rejection of deadlines appears ingrained to the point that she offers excuses on auto-pilot.

The Petition identified deception in Respondent's response to the Jeremy N. case, and Respondent offered nothing to refute this conclusion other than a mystifying claim that the Bar asked her to find a document, which she didn't intend to file, only to have the Bar use that document against her. No document meeting Respondent's description was offered as evidence. The stipulation signed by Judge Pfiffner was attached to the Petition, and if Respondent intended to show forgery or manipulation, she needed to controvert the evidence supplied with the Petition. At the sanctions hearing she continued to allege that someone else altered the stipulation for substitution, and she only intended to enter an appearance for "Jonathan" N.

Judge Morse's letter indicates that the excuses Respondent offered in his courtroom were bizarre and likely untruthful. Many of her allegations do not withstand surface scrutiny and none are corroborated. Virtually all of Respondent's explanations externalize fault and accept only

minor, unintended responsibility for her mistakes. The Committee has spent considerable effort and time to assess all of the evidence and testimony offered by Respondent and to give her the benefit of the doubt. At the end of this process, the Committee has no doubt that many of Respondent's explanations are not factual.

Respondent's Mental State

In *B.S.'s case* as discussed above, Respondent's violations of ARPC 1.3 and 1.4 and 1.16(d) were knowing. Respondent's claim that she "didn't know what to do" about her mistakes implies passivity, but Respondent wasn't just passive in her communications with *B.S.*. She affirmatively told *B.S.* to leave for Hawaii more than once, knowing her advice was in violation of a court order. She affirmatively contacted *B.S.* and told her to stay in Hawaii, after the father won his motion for return of the child. She told *B.S.* not to listen to the grandmother, who knew about the court order to return. When Respondent could no longer evade *B.S.*; she blamed *B.S.* for over-communicating by text and phone and for not emailing Respondent.

In applying for a debit card using her IOLTA account number, Respondent was negligent. She failed to reconcile her bank records, omissions which were at least negligent. Despite being a new attorney, Respondent had over 7 years' experience in managing IOLTA accounts before she passed the bar. Former coworker Gustafson confirmed Respondent's testimony about this experience. It is unclear whether Respondent applied her experience to her own account, because the Bar did not receive any documentation showing that Respondent maintained records sufficient to reconcile her IOLTA account.

When Respondent represented that she would produce discovery in A.B.'s case and represented that she had already directed her assistant to produce discovery responses, Respondent acted knowingly. Her brief claim in the hearing that she didn't know about the discovery for "8 months" is irrelevant, because by March 2016 she knew the defense had moved to compel. The Petition only addresses delays that occurred after Respondent took responsibility for responding to discovery. These delays were prolonged and unexcused.

Respondent knowingly entered an appearance for *Jeremy N.* without obtaining his consent to the representation, although the pleading she signed affirmatively represented that he had consented to her as his attorney. Respondent contends that she never spoke to or dealt with Jeremy N. Since both Respondent and *Jeremy N.* agree on this fact, it shows that her signature

on the stipulation was a false representation to the Superior Court. Respondent's attempt to mislead Bar Counsel and the Hearing Committee seems designed to avoid responsibility for multiple violations: failure to obtain client consent for substituting in as his counsel, failure to manage *Jeremy N.*'s case after she closed her office for 4 months, failure to let anyone else handle the case (because she was in possession of the banker's box of *Jeremy N.*'s files provided by Buchholdt's office), failure to communicate with *Jeremy N.*, and failure to diligently and competently represent him. Respondent's neglect was complete.

Respondent acted knowingly when she "shut her office doors" for 4 months (November 17, 2017 – March 23, 2018) and apparently performed no work for any client. She may have genuinely decided she didn't want to be a lawyer any longer, but that choice did not eliminate her existing duties and obligations as a fiduciary, including the knowledge that her clients would be harmed and their cases delayed (at the very least) if she took no action and failed to communicate for several months.

As stated below, the Committee finds no merit to Respondent's claim that in February, 2017, she attempted to surrender her license to the Bar, and did not know about the option of taking disability status.

After Respondent apparently resumed her active practice in March 2017, the neglect continued for Respondent's remaining clients: Abbey *L*, Adele *L*, and Respondent herself with respect to the Bar complaints. Respondent acted knowingly when she placated clients, the court and Bar Counsel with excuses, promises, requests for delay, and confusing and evasive messages, all apparently without any real plan for action or follow-through. She placated them because she knew she was not doing the work she described – or if she was doing the work, she was unable to finalize or deliver her work product.

Actual or Potential Injury

The IOLTA account violation is the only misconduct that raised potential rather than actual injury.

B.S. suffered significant and irreparable harm from Respondent's advice and inappropriate communications. Because of Respondent's failure to communicate and her deliberately misleading advice, *B.S.* was not aware of court orders and failed to respond for weeks. She lost custody to the father despite being her toddler's primary caregiver, and had to attempt to repair the results of Respondent's egregious errors. The Committee gives no credence

to Respondent's claim that B.S. refused to return to Alaska when Respondent allegedly called her and told her to return. As soon as B.S.'s new attorney notified her of the orders, B.S. immediately returned to Alaska. She left her job, apartment, belongings and car in Hawaii. In Alaska, she turned her daughter over to the father's family, not knowing when she would see her, because no visitation schedule was in place. The father was angry and distrustful. It took a month for B.S. to obtain informal visitation, but she remained at the mercy of the father and his preferences. Only in September 2016 did she obtain official visitation rights, approximately 3 months after returning to Alaska and having to relinquish her daughter to the father and his family.

B.S. lost her job in Hawaii and sold her car at a loss. She had to pay relocation costs expended by her employer. She paid rent for 2 months on the apartment where she no longer lived. With her Alaska residence rented-out, B.S. had to stay with friends, and had no permanent home, which made it harder to support shared custody.

Despite Respondent's errors and B.S.'s reliance on Respondent, the court found that B.S. had committed custodial interference in the first degree in violation of AS 11.42.320, an act of domestic violence under Alaska law. B.S. testified that she does not believe she will be able to leave Alaska until her daughter turns 18 (approximately year 2031). Overall, Respondent was the cause of these injuries. B.S. would have been better off with no attorney representation at all.

Respondent's other clients were similarly anxious, distressed and upset when they made repeated efforts to reach Respondent as she neglected their matters, when their cases languished and they resorted to Courtview for answers, when they had to correct and remind Respondent of what she had promised them, and were ultimately forced to hire new counsel. Worse, Jeremy N.'s case was dismissed causing unknown injury because his case was never presented for trial. Opposing counsel and judges suffered persistent delay, waste of time and effort, and frustration due to Respondent's failure to communicate or to maintain or manage a working telephone or address. Respondent confronted her clients in negative ways, blaming them for her errors. In texts to A.B., Respondent blamed her for her custody battle and licensure problem. A.B.'s new attorney had to file a motion to stop Respondent from contacting A.B. and to remove Respondent as counsel.

Abbey L's custody arrangement was not modified for at least 7 months, despite Judge Easter's stated expectation that Respondent should prepare and file a motion for shared equal custody shortly after trial. Abbey was diligent in contacting Respondent about the motion and her availability to help with the filing. Respondent repeatedly failed to respond. Respondent claimed that she thought she no longer had to act as Abbey's attorney after her March 2017 trial. This contention is directly controverted by all of the messages between Respondent and Abbey, and Respondent's assurances to Abbey that she was working on the motion, it was prepared, and it was ready to file.

A.B. and Adele L also had to hire new attorneys. Adele became concerned when she observed the auctioning of Respondent's storage unit contents, including boxes of legal files that might have been hers. Respondent hadn't returned her files.

Given Respondent's refusal to acknowledge error and her belief that her clients were betraying her, it is not surprising that she failed to assist in protecting their interests after they sought removal or hired new counsel. In both Abbey's and Adele's cases, and in A.B.'s case, she had to be removed. Yet she took the time to draft accusatory messages to A.B., negative and false messages to Abbey L, and to telephone Adele L "yelling and screaming."

Respondent claims that if Bar Counsel had explained the option of disability status to her in February 2017, she would have accepted disability status. Instead, the Bar did not mention disability status to her until December 2017, when she was better and had started to pick-up clients again. At all times Respondent had more probative information about her situation than Bar Counsel could have had. Respondent was meeting with Bar Counsel and seeking extensions on her grievance responses, and promising to provide those responses. Ultimately, when the topic of disability status came up, Respondent declined it. The evidence does not suggest that Respondent was any more likely to have accepted disability status in February 2017 than she was in December 2017, or that Bar Counsel has any responsibility for Respondent's professional errors during the intervening months.

ABA STANDARDS FOR THE DUTIES VIOLATED

ABA Standard 4.4 establishes that the sanction for lack of diligence and client communication. Section 4.41 provides that disbarment is appropriate when

(b) the lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; or

(c) a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.

Disbarment is warranted under this standard for the pattern of neglect and the knowing failure to perform, coupled with actual injury, that has been demonstrated in the complaints (B.S., Adele and Abbey L., Jeremy N.).

ABA Standards 4.3 addresses conflicts of interest, and recommends suspension when the lawyer knows her interests are likely to be adverse to the client's interests, but does not fully disclose the conflict, and causes injury or potential injury to a client.

In the B.S.'s case, Respondent gave improper advice to B.S. in order to avoid the consequences of Respondent's failure to file pleadings in the case, and to cover her serious omissions. When the errors then multiplied beyond repair, Respondent failed to communicate with her client, causing actual and serious harm.

In A.B.'s case, Respondent took sole responsibility for representing A.B., continuing to represent her after Respondent's own custody dispute appeared to overwhelm her ability to represent clients. She subsequently obstructed A.B.'s ability to transition to new counsel. She put her own interests ahead of her clients' interests.

When Respondent essentially abandoned her professional responsibilities in November 2016 – March 2017, disregarding communications and deadlines, she again put her own interests ahead of her clients.

The base sanction of suspension is warranted for these conflicts of interest.

Violations of duties owed to the legal system are addressed in ABA Standards §6. Under Section 6.22, suspension is appropriate when "a lawyer knows he is violating a court order or rule, and there is injury to a client or a party, or interference or potential interference with a legal proceeding."

When she misses a deadline or calendar time, Respondent utters excuses with the apparent expectation that her excuses no matter how tenuous will be accepted. She received many extensions in court cases, perhaps reinforcing her casual attitude toward deadlines, scheduled appearances, party agreements, and judicial warnings. She failed to appear for critical court hearings in B.S.'s custody case and failed to appear at trial in Abbey L.

custody case. She ignored pleadings received in Jeremy N and she missed all of his court deadlines and conferences. She failed to take timely required actions in both L ' cases, and A.B.'s lawsuit, burdening the court, her clients, opposing parties and their counsel. Before the Committee, her request to file her answer 21 days late showed neglect, but not excusable neglect. Oddly, she claimed that the Bar should have filed the Petition earlier, and that she had to spend extensive time refuting the Bar's allegedly inconsistent statements in the interim suspension and Petition. Yet she failed to establish any misrepresentation, misstatement, or ethical violation by Bar Counsel. The Petition alleged an extensive history of events spanning a two year period, and the Committee is well aware of the Respondent's equally lengthy allegations in response. The Committee concludes from the evidence that Respondent frequently missed deadlines and remains oblivious to the prejudice, frustration, waste and delay caused by her lack of diligence and pattern of procrastination.

ABA Standard 7.0 addresses the lawyers' role as a professional, including the lawyer's role in responding to disciplinary matters. Suspension is warranted when a lawyer commits an isolated rule violation. Disbarment may be recommended if the lawyer commits multiple serious violations. In this case, Respondent was accumulating multiple new bar complaints against her even before resolving existing complaints. In responding to charges, Respondent was not candid with Bar Counsel, and affirmatively misrepresented facts in order to minimize or deny her professional misconduct. The Committee agrees that Respondent's consistent failure to turn over client files is likely designed to avoid accountability for the work she did or didn't perform. Her unwillingness to accept responsibility for her conduct reflects adversely on her fitness, competency and professionalism.

Aggravating Factors

Dishonest or Selfish Motive (9.22(a)). As noted above, Respondent repeatedly put her client's interest aside, apparently to focus on other client matters or personal issues. The personal issues spanned multiple situations, including a break-up with her boyfriend, an allegedly malicious legal assistant, various infectious and chronic illnesses, prescribed medications, ER visits, thefts, break-ins, stolen bank information, damage to her vehicle, moving her office, and repeated events of computer hacking by various individuals. All of these events occurred before the custody battle with her mother began, revealing that the custody dispute was

an outcome of her chaotic life, not the single cause of her professional errors. Certainly the custody dispute starting in September 2016 may have eclipsed other events.

Unlike other disciplinary and disbarment cases the Committee has reviewed, there is no indication that Respondent's misconduct was designed to obtain or retain fee advances. Respondent testified that none of the clients other than B.S. paid her anything. B.S. paid a modest initial fee. Respondent's anger toward *the L's* may have been related to an expectation that Adele would pay Respondent's fees for representing Adele's children. But, for the most part Respondent's misconduct appears to have been related to protecting her position or status as a practicing lawyer who can offer help for a fee or on a pro bono basis. Respondent stated that the law was "her life" and that not being able to practice law would be "stripping her identity." The Committee does not perceive any difference between ignoring a client's interests in order to serve the attorney's financial needs, and committing similar actions in order to meet the attorney's occupational or emotional interests. In either case, the attorney's personal needs prevent the attorney from impartially representing the client, and create a conflict of interest in violation of ABA Standards 4.3.

Pattern of Misconduct (9.22(b)). Respondent's pattern of neglect, failure to attend to client matters, and lack of diligence impacted several clients over a 2-year period. The pattern continued after Respondent reportedly had only 3 – 4 clients left and no longer carried a heavy caseload. At the hearing, she offered no direct evidence to explain her conduct, and did not offer any insights that might prevent similar developments in the future. To a large degree, Respondent's pattern of misconduct remains unexplained.

Multiple Offenses (9.22(d)). Respondent committed a variety of professional violations, including neglect, directing a client to violate a court order, failure to communicate, conflicts of interest, deficiencies in acting as an officer of the court, failure to transition and timely withdraw, lack of cooperation with replacement counsel, failure to maintain and reconcile her IOLTA account, and misrepresentation.

Bad Faith Obstruction of disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency (9.22(e)). The Committee notes that Respondent was untimely in her answer to the Petition, and that she failed to comply with the Committee's scheduling order by not timely submitting her exhibit and witness lists. Her excuses for these delays were thin at best and likely exaggerated. Nonetheless, the Committee does not have

sufficient evidence to determine that her delays were in bad faith. Instead, the Committee concludes that Respondent's pattern of lateness, neglect and lack of planning and preparation applies to matters in which she is a party, not just when she is attorney for another. This underscores the habitual nature of her misconduct.

Submission of false evidence, false statements, or other deceptive practices during the disciplinary process (9.22(f)). Respondent affirmatively misled Bar Counsel about her role in the ~~Jeremy N.~~ matter. She made up more than one story, and presented similar allegations to the Committee. Notably, Respondent showed no compunction in alleging fraudulent and unethical misconduct by another individual, after that same individual testified for her in her custody case, and based largely on speculation. Undoubtedly these were not the only misrepresentations made during the course of addressing multiple charges or before the Committee. The ~~Jeremy N.~~ misrepresentation was material and caused harm: the Bar had to perform additional research and investigation, and even after the charge was deemed admitted, the Committee spent time reviewing and attempting to understand Respondent's false story.

Refusal to acknowledge wrongful nature of conduct (9.22(g)). Respondent acknowledged certain errors prior to the hearing, but treated her misconduct as minor. After *B.S.* testified about the harm she suffered in losing custody, the harm to her daughter and her finances, and her new criminal history, Respondent apologized to *B.S.*, apparently for the first time. This apology occurred 2 years after Respondent's conduct in connection with giving improper advice and neglecting *B.S.*'s case. More important to the Committee's decision is that throughout the hearing, Respondent continued to claim that her employee K had somehow used Respondent's telephone or computer to fake certain text communications with *B.S.*. Respondent regrets that "when she got sick" and realized how much time *B.S.*'s case would take, she should have contacted *B.S.* to withdraw. She didn't realize she was "going to be sick for so long, getting the flu and then kept getting the flu." Respondent's apology suggests that she was too busy for *B.S.*; not that she regrets her misconduct or breach of ethical obligations.

Significantly, Respondent committed remarkably similar violations in Abbey *L.S.* custody case, with messaging very similar to those she gave *B.S.*, and just 6 months after receiving *B.S.*'s grievance. Respondent does not allege that she had the flu or too many cases when she neglected Abbey's case. Instead, she claimed against all the evidence

that she thought that Abbey was no longer her client and she no longer had any responsibility to help her. Respondent also claimed that Abbey was not trustworthy, she was a drug addict and Respondent had to discuss matters with her face to face before she could file anything to protect herself against misleading the court. But Respondent's own Facebook messages with Abbey demonstrate that Respondent failed to show-up the night that Abbey agreed to meet with her in person.

Vulnerability of victim 9.22(h). Respondent's victims were vulnerable. B.S. was in Hawaii working at her brand new job because Respondent told her she could move. B.S. was unable to make in-person contact with Respondent or to visit her office. B.S. was frustrated, anxious and politely persistent as she tried to contact Respondent long distance. Despite these continuing efforts, she was left in the dark about the court's orders on custody and return of her daughter, until she hired a new attorney.

Plaintiff A.B. sued the municipality of Anchorage on claims arising out of sexual abuse by a police officer. She was living out-of-state and suffered from suicidal impulses and substance abuse issues. She attempted suicide after a "bad" result in her lawsuit, as noted by her provider, shortly after the court ordered her to pay sanctions. She was hospitalized. Despite A.B.'s fragility, Respondent sent her corrosive emails claiming that A.B. had put Respondent's profession and child at risk.

Similarly Abbey L was suffering setbacks and incarceration in the early days of Respondent's representation, and when Respondent failed to appear for her custody trial in January 2017. By March 23, the court was expecting Abbey to file a 50/50 custody motion, and Abbey was persistently reminding Respondent of the need to submit the motion. Respondent virtually ignored her, communicating only to mislead her about the motion, or to make excuses. Abbey continued working with Respondent for months due to Respondent's assurances that she had the paperwork ready to file (or already filed). Given Respondent's representation of Abbey at her trial in March, it would have been burdensome to hire someone other than Respondent to file the motion.

Jeremy N. was incarcerated. He had no ability to secure communication with Respondent, a lawyer he had never met. Respondent seems to have been relying on Buchholdt's paralegal to communicate with Jeremy N. Later she claimed that she turned Jeremy N.'s file over to

his former attorney, not to *Jeremy N* himself, after *Jeremy N*'s case was dismissed and after his Bar complaint was filed.

MITIGATING CIRCUMSTANCES

Absence of a prior disciplinary record. 9.32(b) Respondent has not been previously accused of professional violations, but since she had practiced only 2 years at the time of the first complaint, this factor is relatively insignificant.

Personal and Emotional Problems (9.32(c)). Respondent cited multiple events related to her custody case with her mother that caused stress, depression, and revival of her childhood traumas. Major events occurred in August/September, November 2016, and in November 2017. Respondent cited multiple events of being a victim of crimes by two boyfriends, former clients, and office assistant K. She suffered from financial pressure, chronic and sporadic physical illnesses. All of these events qualify as stressors.

Inexperience in the Practice of Law (9.32(f)). Respondent had practiced 2 years at the time the grievances began. Respondent does not agree that this is an appropriate mitigating factor because she worked in law offices since she was 15, interned with the DV court when she was 16, and with the Public Defender when she was 17, and drafted administrative rules applicable in custody cases. She won her first attempted murder trial straight out of law school and has had more cases dismissed than "anyone she knows." Respondent had better than average experience in the nuts and bolts of a law practice and the need to communicate with clients and to be responsive to judicial orders and schedules. As stated by witness Gustafson, Respondent was responsible for keeping attorneys on time and following calendars long before she became a lawyer.

The Committee received no evidence to establish mitigating factors arising from physical disability (9.32(h)), mental disability, or chemical dependency. (9.32(i)). Respondent did not ask that her diagnoses of PTSD, ADD, or any physical condition be considered as mitigating factors. She stated that ADD was not a problem until she went to law school, and that PTSD did not impact her until her custody dispute in November/December 2016. Respondent did request in a variety of ways that her custody dispute be considered as mitigation. Consequently the Committee reviewed the timeline of events to assess cause and effect regarding the custody

dispute and the client, judge, and Bar grievances. The *B.S.* grievance reflects the most egregious instance of misconduct leading to injury. The misconduct occurred four months before Respondent's custody battle with her mother.

Respondent offered a letter from a therapist (Bruce Bibee) affirming that in November 2017, Respondent was performing in the real world as a "journeyman adult" and was resolving her childhood traumas. Bibee saw no reason she should not be the primary parent of her son.⁷ Based on Respondent's arguments and testimony, and the limited evidence offered on mental or physical conditions, the Committee declines to conclude that mental disability, depression, extreme stress or other impairment is a mitigating factor.

According to Respondent, in late 2017, after she was accused of being "high" in court, Respondent connected with the Lawyer's Assistance Committee. She testified that she responded to the Committee's direction which required time consuming efforts on her part. Bar Counsel agreed that contacting the Committee qualifies as a mitigating factor. The Committee also accepts that working with the Assistance Committee is a mitigating factor.

CONCLUSION

The Committee concludes that a severe sanction is necessary. In choosing between a 5-year suspension or disbarment, the Committee recommends disbarment.

The severity of harm to victims, the vulnerability of certain victims, Respondent's inability to recognize or perhaps even understand the harm she caused her clients and the court system, and her reluctance or inability to acknowledge her professional misconduct, are highly troubling by themselves. When these factors are coupled with her deceptive responses to Bar Counsel in the *Jeremy N.* grievance and her continuing disregard of rules, order, and forum requirements, the risk to the public and to the legal system becomes both unmanageable and unacceptable. Respondent's conduct showed no demonstrated improvement or understanding between 2016 through the date of the hearing. The period between *B.S.'s* grievance in August 2016, and the time of the hearing in January 2019, provided ample opportunity for

⁷ Respondent Ex. A. It is possible that Respondent had less positive assessments from other evaluators as of November 2017, but if so Respondent chose not to share such information with the Committee for purposes of mitigation. See Judge Morse's reference to a "troubling psychiatric evaluation". Without such additional information, the Committee has no choice but to accept Respondent's evidence that she was functional in late 2017.

reflection, preparation, and planning for future improvement. Respondent has not shown even a journeyman's ability to reflect on her patterns and to plan for future improvement. When considered on the whole, Respondent's well-established patterns and her responses to the disciplinary process warrant disbarment. The mitigating factors are insufficient to outweigh the aggravating factors.

Respondent states she is truly committed to being a lawyer and to achieving justice for her clients. This commitment is not shown in her private communications with clients, in her characterizations of Bar Counsel efforts, or in her descriptions of the legal process. She stated she has lost faith in the judicial system. The only dispute is whether she lost faith before or after her custody dispute. Telling *B.S.* in April 2016 to ignore a court order is consistent with an utter disregard for rules, motion requirements, and deadlines. Respondent's refusal to comply with court-ordered deadlines and her obliviousness to the burdens created for others were well-established well before her custody battle.

The Committee also adopts Bar Counsel's request that if Respondent reapplies for admission to the Bar, she must:

- a. Establish that she has made full restitution of any amounts owed to the Alaska Bar Association, the Lawyer's Fund for Client Protection, and to all clients for any fee arbitration awards. No claims have been filed at this time.
- b. Provide with her application to reinstatement, an expert opinion of a psychiatrist or psychologist, that she has no mental condition or illness that currently interferes with her practice of law, and that she had addressed the childhood and/or adult trauma, personality or emotional issues that caused her to commit the misconduct that occurred in 2016 - 2017.
- c. Submit a clean urinalysis test not more than 30 days before her petition, and agree for one year after reinstatement to provide quarterly tests that disclose no drug or alcohol impairment.⁸
- d. Accept being supervised and mentored by a currently licensed Alaska attorney located in her city of residence, who is mutually acceptable to Respondent and Bar Counsel. The period of supervision would be determined by the Disciplinary Board

⁸ The Committee has not determined that Respondent is impaired by substance abuse. Respondent denies drug misuse. At the same time, Respondent affirmatively stated she has no objection to drug-testing conditions. The Committee finds that Respondent has been repeatedly accused of drug-related impairment, and that her conduct and presentation would readily lead to a conclusion of impairment. Passing a drug test as a condition of reinstatement will help Respondent establish that she presents no harm to the public.

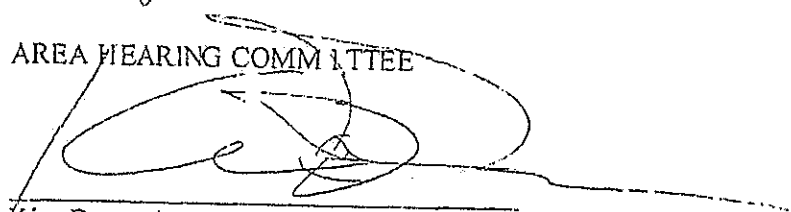
upon reinstatement. The Committee recommends that the supervision be mandatory for two years, with monthly in-person meetings.


- e. Submit a comprehensive plan acceptable to Bar Counsel showing how Respondent will manage her accounting with written financial procedures for handling client funds. If reinstated, she must retain an accountant or bookkeeper acceptable to Bar Counsel to oversee her financial and trust accounting practices for not less than 2 years after reinstatement. Respondent will voluntarily submit reports to Bar Counsel establishing that her accounts and finances are being competently handled, every 6 months during the 2 year period.
- f. Certify that she has earned 9 credit hours of Continuing Legal Education in the areas of legal ethics, law office management, and management of law office accounts.

The Petition sought cost and fees assessment according to the schedule set out in Alaska Bar Rule 16(c)(3). Bar Counsel did not request fees in the trial brief or at the hearing. Accordingly, the Committee does not recommend that fees be assessed. Respondent apparently has no funds to pay for fees.

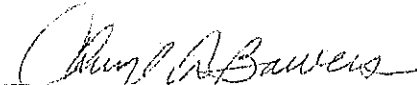
DATED this May 31 day of May 31, 2019.

AREA HEARING COMMITTEE


Kim Dunn, Attorney (Chair)


David Nesbitt, Attorney

*by KD - as authorized
via email.*


Cheryl Bowers, Public Member

*In the Disciplinary Matter Involving Erin R. Gonzalez-Powell
ABA File No. 2016D107, etc.*