

THIS REPORT IS NOT A FINAL ORDER OF DISCIPLINE*



Issued
July 14, 2026

In the Matter of: :
: IRIS McCOLLUM GREEN, :
: Board Docket No. 24-BD-013
Respondent. : Disciplinary Docket No. 2021-D173
: A Member of the Bar of the :
District of Columbia Court of Appeals :
(Bar Registration No. 932590) :

**REPORT AND RECOMMENDATION OF THE
BOARD ON PROFESSIONAL RESPONSIBILITY**

I. INTRODUCTION

This case arises from Respondent's representation of a client, Rasheed Berry, a defendant in a divorce proceeding in the Superior Court of the District of Columbia. The plaintiff, Michelle Berry, was represented by the complainant, Jeffrey Markowicz, Esquire.

An Ad Hoc Hearing Committee found that Disciplinary Counsel proved all of the charged violations of the following D.C. Rules of Professional Conduct: Rule 1.1(a) (lack of competence), Rule 1.1(b) (skill and care), Rule 1.3(c) (reasonable promptness), Rule 3.4(c) (knowingly disobey obligation under rules of a tribunal), Rule 3.4(d) (failure to make reasonably diligent efforts to comply with proper discovery requests), Rule 8.4(c) (dishonesty), and Rule 8.4(d) (serious interference with the administration of justice). The Committee recommended a six-month

* Consult the 'Disciplinary Decisions' tab on the Board on Professional Responsibility's website (www.dcattorneydiscipline.org) to view any prior or subsequent decisions in this case.

suspension, with three months stayed in favor of one year of supervised probation with practice-management consultation, practice monitoring, and CLE requirements. It did not recommend a fitness requirement suggested by Disciplinary Counsel.

Both parties filed exceptions: Respondent contends that the disciplinary proceedings were improper and that she did not violate any Rules of Professional Conduct, while Disciplinary Counsel agrees with the Hearing Committee's legal conclusions but contends that Respondent should receive a one-year suspension with the conditions recommended by the Hearing Committee. For the reasons set forth below, we agree with the Hearing Committee that Respondent violated Rules 1.1(a), 1.1(b), 1.3(c), 3.4(c), 3.4(d), 8.4(c), and 8.4(d). For the reasons discussed below, we recommend that Respondent receive a one-year suspension, with six months stayed in favor of one year of probation with practice monitoring. As a condition of reinstatement from the six-month served suspension, Respondent should be required to undergo a consultation with the D.C. Bar's Practice Management Advisory Service ("PMAS") and attend six hours of CLE courses in practice management and technology.

II. FINDINGS OF FACT

We adopt the Hearing Committee's factual findings because they are supported by substantial evidence in the record as a whole. *See* Board Rule 13.7. Disciplinary Counsel does not take exception to the Hearing Committee's factual findings, and Respondent does not argue that any specific facts are not supported by

substantial evidence. Below, we summarize those findings and instances where we find additional facts by clear and convincing evidence, as supported by record citations. *See id.*

A. Respondent's Appearance

Respondent entered her appearance in the case on March 9, 2020—one day before the deadline for Mr. Berry's answer to Ms. Berry's complaint. Findings of Fact ("FF") 3-4. On March 10, Associate Judge Elizabeth Wingo of the Superior Court, who presided over the case through 2021, granted Respondent's extension request and set a new deadline of March 27. FF 4, 79. In the interim, due to the COVID-19 pandemic, the Superior Court switched to online operations and issued a tolling order providing that "all deadlines and time limits in statutes, court rules, and standing and other orders issued by the court that would otherwise expire before May 15, 2020 including statutes of limitations, are suspended, tolled, and extended during the period of the current emergency." FF 6; *see* FF 5. Respondent and Mr. Markowicz disagreed as to whether the tolling order extended the deadline for Mr. Berry's answer. While Respondent relied on the order and did not file by March 27, Mr. Markowicz believed it did not apply because the deadline had been set by Judge Wingo, rather than a statute or court rule, and he filed a motion for default on April 15. FF 7. The motion was ultimately denied, and Respondent was permitted to file an answer. FF 9.

B. Discovery Disputes

Mr. Markowicz repeatedly asserted that Respondent's discovery responses were incomplete, non-responsive, and poorly organized. He alleged that Respondent failed to respond to multiple letters and emails seeking to resolve deficiencies, which led him to file a motion for sanctions on August 29, 2020. FF 11-13. Judge Wingo denied the motion on November 24, based on Mr. Markowicz's failure to endeavor to resolve the dispute without court involvement. FF 14.

Three months later, Mr. Markowicz filed another motion for sanctions, noting his prior unsuccessful attempts to address the deficiencies with Respondent and asking the court to order Respondent to fully answer his interrogatories and document requests, to enter a default, and to order Mr. Berry to pay his attorney's fees related to discovery. FF 17-21. In response, Respondent contended that she had fully complied, that Mr. Markowicz's "alleged certificate of compliance [was] replete with mendacious statements" and that his motion "amounts to harassment"—accusations which Judge Wingo found baseless. FF 22, 25; DCX 32 at 2, 9. During a March 31, 2021 hearing on Mr. Markowicz's motion, Judge Wingo ruled that it was improper for Respondent to answer interrogatories by saying the answers could be found in documents already provided, which were not properly identified in the responses, granted Mr. Markowicz's request for attorney's fees, and held that Respondent and Mr. Berry were jointly responsible for the fees. FF 26-27; *see* Disciplinary Counsel's Exhibit ("DCX") 36 at 12-13; DCX 40 at 9; FF 36. In a

written order memorializing her rulings, issued on May 24, 2021,¹ she held that Respondent failed to provide clear responses to interrogatories and the specific documents Mr. Markowicz sought, and that her excuses for failure to comply (such as difficulty adapting to remote work and busy case load) were unavailing. FF 31-33. Because Respondent had argued that she had, in fact, turned over certain documents, Judge Wingo ordered her to either identify the dates she had produced the documents or to produce them by June 23, 2021. FF 34-35.

Just before the March 31 hearing, Respondent filed her own motion to compel and for sanctions, and Judge Wingo scheduled a separate hearing to address the motion on June 11, 2021. FF 23, 28. Judge Wingo reminded the parties of the upcoming hearing of June 11 in her May 24 order. FF 37. Yet when the June 11 hearing convened, both Respondent and Mr. Berry were absent. FF 38. Judge Wingo asked the clerk to contact Respondent, who joined the hearing thirty minutes late, along with Mr. Berry, and explained she had “mislaidd notification” of the hearing. FF 38-39. Judge Wingo ordered Respondent and Mr. Berry to pay Mr. Markowicz’s fees for the first half hour of the hearing, reminded Respondent that she had been present when the hearing date was set, and noted that there was no longer enough time to resolve the pending issues. FF 39, 41. Turning to the merits

¹ Respondent and Mr. Berry were required to pay the fee award of \$4,427.50 within thirty days of the May 24 written order. FF 35-36. Judge Wingo’s August 12, 2021 order pointed out that the payments were overdue and ordered that Respondent and Mr. Berry pay Mr. Markowicz directly by August 25, 2021, warning that further sanctions may be imposed for failure to comply. DCX 61 at 2-3. Respondent did not pay her half of the fee award until September 9, 2021. DCX 76 at 2-4.

of Respondent's motion, Judge Wingo told Respondent that it was difficult to discern which of Mr. Markowicz's responses were still outstanding. FF 42. Respondent was not fully prepared to address those concerns because she did not have the documents in front of her, and Judge Wingo expressed frustration that Respondent was not able to defend her own motion. FF 44. During the hearing, Respondent and Mr. Berry frequently interrupted and spoke over Judge Wingo, arguing about her prior rulings and accusing her of being unfair. FF 43, 45. Judge Wingo ultimately denied Respondent's motion for sanctions without prejudice to refile it with more specificity as to what discovery was missing. FF 46-47. Respondent filed an amended motion on July 12, 2021, which was substantially similar to her first motion and was later denied as moot. FF 49; Respondent's Exhibit ("RX") 44 at 593.

C. Joint Pretrial Statement

Judge Wingo scheduled a pretrial hearing for August 11, 2021, in which she intended to address any remaining discovery issues, and she required the parties to file a joint pretrial statement one week in advance. FF 46, 50. Respondent and Mr. Markowicz agreed that Mr. Markowicz would send his portion of the pretrial statement to Respondent so that she could incorporate it into her draft. FF 53-54. Mr. Markowicz emailed his draft statement the morning of August 3, stressing that he would need to approve the final version. FF 54. Respondent sent a complete draft back to Mr. Markowicz that evening, informing him that she intended to file unilateral "addenda" to the statement. *Id.* Mr. Markowicz warned her not to submit

anything alongside the joint statement without his consent. *Id.* Respondent and Mr. Markowicz argued about Respondent's possible addenda in an email exchange that included personal insults. FF 55-57. Around noon on August 4, Mr. Markowicz repeated his request for Respondent's addenda. FF 57. Respondent replied a half-hour later, but did not attach any documents or explain what she intended to include in any addenda. *Id.* Around 4:00 p.m., Mr. Markowicz filed a unilateral pretrial statement setting forth Ms. Berry's position. FF 58.

When Respondent received an automated notice of Mr. Markowicz's filing, she incorrectly assumed he had filed a joint pretrial statement without her consent, but did not immediately open the document to verify that assumption. FF 59. Instead, at 4:19 p.m., she emailed Mr. Markowicz:

I see that you have submitted what purports to be a joint pretrial statement without allowing me the opportunity to either review it or to sign it. If my signature or /s/ is on it, it is done so without my consent. I requested that I be allowed to review what was to be filed prior to it being filed which is why I did not sign it in advance. Your behavior is unethical.

RX 34. Respondent finally opened the document just before midnight and discovered that it was not a joint statement. FF 60. She "panicked" and decided to file a joint statement immediately, without consulting Mr. Markowicz. FF 60, 62. To prepare the statement, Respondent took the draft Mr. Mr. Markowicz previously

sent her, added her section, typed his initials on the signature line, and inserted his name as a sender in the certificate of service.² FF 61.

Mr. Markowicz moved to strike Respondent's pretrial statement. FF 63. Judge Wingo granted the motion, admonishing Respondent for falsely suggesting to the court that Mr. Markowicz had approved the filing. *Id.*

D. Further Discovery Issues

The Hearing Committee found that Respondent was unable to effectively use basic technology during discovery proceedings—for example, she did not use an electronic system to track her production of documents, she relied on printed copies to edit drafts of documents, and she was at times unable to show her face or view documents during hearings. FF 65.

Because she could not resolve remaining discovery disputes at the August 11 pretrial hearing, Judge Wingo vacated the existing hearing dates, scheduled a full-day discovery hearing for September 13, 2021, and ordered Respondent to provide any updated discovery responses by August 30. FF 66; RX 44 at 592. At the September 13 hearing, Judge Wingo was still unable to evaluate the adequacy of Respondent's discovery responses because Respondent had failed to organize the information and make it easily accessible. FF 67. Because Respondent continued to argue that she had produced all required documents, Judge Wingo scheduled

² The parties disagree as to whether Respondent technically "forged" Markowicz's signature. The Hearing Committee did not make a finding one way or the other, as Disciplinary Counsel had not charged Respondent with committing a crime (under Rule 8.4(b)), and it concluded that she made a misrepresentation to the court regardless of whether the signature was forged. HC Rpt. at 87 n.45.

another discovery hearing for October 13, 2021, and gave Respondent detailed instructions for uploading proof of compliance to a dedicated Box.com account. FF 69; *see, e.g.*, DCX 68 at 189-190. She warned Respondent that failure to prove her compliance would result in an adverse inference and probably a default judgment. FF 69.

At the October hearing, Respondent was unable to locate documents in the Box.com folder because they were disorganized. FF 70. Judge Wingo found that Respondent had failed to provide critical information and ruled that she would enter a default at least as to the divorce. FF 71-72. She set a status hearing for December 9, 2021. FF 75.

While Respondent took the position that it was Mr. Berry's responsibility to provide responsive documents, over the course of multiple discovery hearings, she made knowingly false statements to Judge Wingo by repeatedly assuring her that she had fully complied with discovery requests. *See* FF 73-74.

E. Defaults and Ruling

Two days before the December 9 status hearing, Judge Wingo asked the parties to reschedule due to a family emergency. Respondent said she and her client would be available at noon on December 20, 2021, and Mr. Markowicz agreed to change his schedule to attend a hearing at that time in order to avoid delaying the hearing into 2022. FF 75. Judge Wingo entered an order on December 8 scheduling the hearing for noon on December 20, and it was sent to counsel by email and CaseFileXpress. FF 76. On December 19, she issued a written order of default as

to divorce, confirming her ruling at the October 13 hearing, but did not extend it to custody or child support. FF 77. That order was also served by email and CaseFileXpress, and both the order itself and the cover note in the email reminded the parties that the next status hearing was scheduled for noon the following day. *Id.*

Neither Respondent nor Mr. Berry appeared at the December 20 hearing, leading Judge Wingo to enter a default against Mr. Berry as to all remaining issues, adding that the default would only be vacated if Respondent filed a motion setting forth good cause for failure to appear. FF 78. In a written order issued on December 20, 2021, Judge Wingo set a default/ex parte hearing for March 11, 2022, and noted that the case would be transferred to Associate Judge Kelly Higashi because Judge Wingo would be rotating calendars in 2022. FF 79; DCX 78.

In a motion to set aside the December 20 default order, Respondent claimed that she did not see any notice of the December 20 hearing until she was checking her email four hours after it began. FF 79. The Hearing Committee credited Respondent's testimony that she did not actually see the scheduling order and default order until after the December 20 hearing—which was consistent with the fact that Mr. Berry inquired about the hearing date and Respondent told him it had not been scheduled—and concluded that she was neglectful in failing to notice court orders in her email inbox for two weeks. FF 80-82. Judge Higashi, who assumed the case after Judge Wingo rotated out of the division after the year's end, granted the motion and vacated the default as to custody and child support, but not as to divorce,

equitable distribution of property, equitable distribution of debt, or alimony. FF 84; RX 44 at 596.

At the ex parte proof hearing beginning on March 11, 2022, Judge Higashi found that Mr. Berry was primarily responsible for the estrangement of the parties, granted Mr. Berry a 45% interest in the marital home, and ordered him to pay \$1,000 per month in alimony for two years. FF 85. After a trial concerning custody and child support, Judge Higashi issued an order in December 2024 and awarded the parties joint legal and physical custody, ordered Mr. Berry to pay \$120 per month in child support, and ordered Mr. Berry to pay Mr. Markowicz's fees arising from his failure to appear at the December 20, 2021 hearing, but not based on his failure to provide complete discovery. FF 86; RX 46 at 721 (declining to impose additional monetary sanctions for discovery failures, on top of the existing orders of default and monetary sanctions for missed hearings, because Ms. Berry "recouped a great deal of her expenses that are directly attributable to Defendant and the Court does not find the circumstances so extraordinary or that dominating reasons of fairness demand that the Court enter an additional monetary sanction"). Respondent filed an appeal, which was pending before the Court of Appeals at the time of oral argument before this Board but was since decided. HC Rpt. at 57 n.28; *see* Oral Argument at 1:20:30-1:20:38 (BPR May 7, 2026) <https://www.youtube.com/live/R6kd0uM-5oc>; D.C. Court of Appeals Docket, *Berry v. Berry*, 24-FM-0549 (showing that the case was vacated and remanded in part and affirmed on May 28, 2026).

F. Expert Witnesses

Disciplinary Counsel and Respondent both offered expert testimony and expert reports. Disciplinary Counsel's expert, Margaret McKinney, was qualified as an expert in family law. FF 88. Her report found that Respondent's conduct fell below the standard of care for family law practitioners because she was not able to keep track of her document production, did not adhere to deadlines, lacked sufficient technological skills, and failed to timely open and respond to emails. FF 89-91. She concluded that Mr. Berry was harmed by Respondent's conduct. FF 92.

Respondent's expert, Brian Plitt, was qualified as an expert in civil litigation, not in family law. FF 93. The Hearing Committee noted that Mr. Plitt and Respondent had worked together on a case and were considered professional colleagues, and that his opinions were informed by his experience working with her, which undermined his objectivity. FF 93, 95; HC Rpt. at 64 n.32. Mr. Plitt concluded that Respondent's missteps were largely "regrettable," not unethical, but he did not offer a useful opinion defining the relevant standard of care. FF 97-99. The Committee found that Mr. Plitt's opinion that Respondent met the standard of care with respect to discovery was contradicted by the record. FF 101. He countered Ms. McKinney's view of the harm caused to Mr. Berry by pointing out that he has never complained about Respondent's conduct and that she continues to represent him. FF 95.

G. Findings in Aggravation and Mitigation

In aggravation of sanction, the Committee considered that Respondent received two informal admonitions: one in 1998 for violating Rules 3.4(c), 4.2(a), and 8.4(d), and one in 2018 for violating Rule 1.4(a). FF 103; HC Rpt. at 109.

In mitigation, the Committee considered four character witnesses who testified that Respondent has competently represented clients in the past, but none of the witnesses were familiar with the underlying facts of this case. FF 104-107; HC Rpt. at 110.

III. DISCUSSION

The Board may make its own findings of fact, but it “must accept the Hearing Committee’s evidentiary findings, including credibility findings, if they are supported by substantial evidence in the record.” *See In re Klayman*, 228 A.3d 713, 717 (D.C. 2020) (per curiam) (quoting *In re Bradley*, 70 A.3d 1189, 1193 (D.C. 2013) (per curiam)); *see also In re Thompson*, 583 A.2d 1006, 1008 (D.C. 1990) (defining “substantial evidence” as “enough evidence for a reasonable mind to find sufficient to support the conclusion reached”). We review de novo its legal conclusions and its determinations of ultimate fact. *See Klayman*, 228 A.3d at 717; *Bradley*, 70 A.3d at 1194 (Board owes “no deference to the Hearing Committee’s determination of ‘ultimate facts,’ which are really conclusions of law and thus are reviewed de novo”).

A. Propriety of Disciplinary Proceedings

Respondent and her expert accuse Mr. Markowicz of using his disciplinary complaint to gain a strategic advantage³ and accuse Disciplinary Counsel of being complicit. *See* Respondent’s Brief (“R. Br.”) at 1-3; RX 48 at 735. She goes so far as to allege, without citing evidence, that the Assistant Disciplinary Counsel attended court hearings in the *Berry v. Berry* case and sought to invade attorney-client privilege. R. Br. at 3-4. She also contends that the procedural integrity of the proceedings should be called into question because the attorney member and public member of the Hearing Committee were not assigned until after the prehearing stages were completed, depriving the Chair of their input, and because the only African American member was recused without adequate explanation.⁴ *Id.* at 4, 30. Finally, Respondent argues that the Hearing Committee Chair demonstrated bias by prematurely inquiring about prior discipline—i.e., before the Committee had made a preliminary non-binding determination of a Rule violation, contrary to Board Rule 11.11. *Id.* at 30. Disciplinary Counsel does not respond to these arguments, but before the Hearing Committee, Disciplinary Counsel pointed out that it never

³ After the Specification of Charges was filed in February 2024, Respondent filed a motion to stay the disciplinary proceedings pending resolution of the underlying matter, which the Hearing Committee Chair denied during the pre-hearing conference held on April 18, 2024. *See* HC Rpt. at 3. Although the motion was denied, the hearing was not held until nearly a year later, between February 24-27, and March 18, 2025, for the reasons set forth on pages 2-5 of the Hearing Committee Report. Briefing was not completed until July 30, 2025. *See* HC Rpt. at 7-11.

⁴ The originally assigned public member recused himself and was replaced on February 11, 2025.

contacted Mr. Berry because he remained Respondent's client and that, either way, interference with their relationship would not be a defense to the charges. Disciplinary Counsel Reply Br. to HC at 22-23.

There is no evidence that Disciplinary Counsel attended hearings in the underlying matter or that the recusal of the initial public member of the Hearing Committee deviated from the standard procedure. As to the premature inquiry into prior discipline, the transcript demonstrates that the Chair was walking through the order of events that would take place on the final hearing day "if we can make a preliminary nonbinding finding of a rule violation" because the Hearing Committee sought to finish both phases of the hearing on that day. Hearing Transcript ("Tr.") 1161; *see* Tr. 1158-1163. After additional discussion, the Chair asked the Assistant Disciplinary Counsel whether "there would be any substantial evidence of—" to which the Assistant Disciplinary Counsel replied: "There's some." Respondent's counsel then said "something happened"—presumably referencing the prior discipline issue—and that he would need to research the case law to see what could be done about it. Tr. 1163-65.

It appears that Respondent did not raise the issue with the Hearing Committee again, and she has not explained how disclosure of prior discipline would have infected the Hearing Committee's consideration of the case. Given that the final witness, Mr. Plitt, was already midway through his testimony, and that the Hearing Committee ultimately found each of the charged Rule violations, it is difficult to see how Respondent was prejudiced by any early references to prior discipline.

B. Expert Qualifications

Respondent contends that the Hearing Committee should not have relied on Disciplinary Counsel's expert witness, Ms. McKinney, because (1) she did not perform a comprehensive review of the discovery that had been produced; (2) she was biased in favor of Disciplinary Counsel, shown by her agreement to reduce her hourly fee (*see* Tr. 643); (3) she misconstrued the marital property award; (4) she overstated the differences between family law and regular civil practice; and (5) she never spoke to Mr. Berry. R. Br. at 4-6, 12. Respondent contends that the Committee unfairly discounted the opinions of her expert witness. *Id.* at 9.

Disciplinary Counsel contends that Ms. McKinney did not need to review every document produced in order to offer an opinion about whether missed deadlines and disorganization, resulting in orders of default, fell below the standard of care. Disciplinary Counsel Brief ("ODC Br.") at 19-20. It does not address Respondent's other specific arguments.

(1) We agree that Ms. McKinney did not need to examine the documents that were actually produced in order to testify that Respondent's conduct fell below the standard of care for a domestic relations practitioner. Disciplinary Counsel did not allege that Respondent violated Rule 1.1 based on her failure to provide all required documents to Mr. Markowicz. Rather, it argued:

Respondent violated both subsections of Rule 1.1 when she missed court and discovery deadlines, violated court rules and orders, filed improper motions, failed to seek extensions, failed to appear for hearings, produced documents without any system by which she could show what was produced, and failed to use basic technology to access documents produced to her. . . . Disciplinary Counsel further contends

that Respondent showed a lack of understanding of the court's rules and refused to correct her conduct even after receiving specific directions from the court. . . . Disciplinary Counsel also contends that these actions violated the standard of care that requires an attorney to conduct discovery in compliance with a court's rules and orders, to have technical skills to produce discovery in the required form, and to seek an extension of time when the attorney cannot meet a deadline.

HC Rpt. at 60-61 (internal quotations and citations omitted). None of those arguments require examination of the exact documents that Respondent ultimately produced.

(2) Ms. McKinney's willingness to reduce her usual hourly fee from \$600 to \$300 does not clearly indicate bias toward Disciplinary Counsel. She was not asked why she had agreed to reduce her fee, and there are plenty of plausible reasons for doing so, including to perform a public service. In fact, after she said she provided a discount due to her "obligation to help the Office of Disciplinary Counsel," she corrected herself and said it was an obligation to "provide services" to Disciplinary Counsel. Tr. 643.

(3) As to the marital property award, Judge Higashi's February 2024 decision appears to be internally inconsistent. On page 28, she ruled that Ms. Berry should receive a "slightly greater ownership interest in the marital home," awarding her 55%. RX 44 at 613. But on the following page, she gave Mr. Berry "a 90-day right of first refusal to purchase Plaintiff's 50% interest in the property." *Id.* at 614. Ms. McKinney addressed the inconsistency in her testimony, saying she guessed that the 50% number was a mistake, since Judge Higashi previously explained why Ms. Berry deserved a greater interest. Tr. 682-84. The Hearing Committee agreed.

After considering Respondent's interpretation of the award, it nevertheless concluded that Judge Higashi's order simply gave Ms. Berry a 55% interest in the marital property, consistent with page 28 of her order. FF 85; *see* HC Rpt. at 73-74. Judge Higashi's subsequent permanent custody order summarized her own previous order the same way:

The Court's *Divorce Judgment* awarded Plaintiff a 55% ownership interest and Defendant a 45% ownership interest in the marital home, however the Defendant was given a 90-day right of first refusal to purchase Plaintiff's interest in the property. If Defendant did not exercise his right, the parties were to list the real property for sale no later than May 15, 2024.

RX 46 at 695.

Respondent does not account for the internal inconsistency, or Ms. McKinney's testimony on the issue, but simply accuses Ms. McKinney of misconstruing the order by premising her opinion on an unequal award. R. Br. at 5-6; *see* Tr. 915-16 (Respondent construing the award as granting 55% to Ms. Berry only if Mr. Berry decided to buy her share, and an even distribution if it was sold to a third party). Because the Hearing Committee's interpretation is supported by substantial evidence—and Respondent does not claim otherwise—we find that Ms. Berry was given a greater interest in the marital home than Mr. Berry, and Ms. McKinney was correct to rely on that interpretation.

(4) Ms. McKinney's view of the differences between domestic relations law and civil procedure did not affect her ability to testify regarding the standard of care in domestic relations cases; at most, it would affect the weight that should be provided to her testimony.

(5) It was not necessary for Ms. McKinney to meet with Mr. Berry before rendering her expert opinion. There is no allegation that Mr. Berry could provide additional *factual* context, and his favorable view of Respondent’s performance was undisputed. Whether he suffered prejudice, however, does not depend on his subjective opinion.

C. Rules 1.1(a) and (b)

Rule 1.1(a) requires a lawyer to “provide competent representation to a client,” which requires utilizing the “legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.” *See In re Drew*, 693 A.2d 1127, 1132 (D.C. 1997) (per curiam) (appended Board Report) (lawyer who has requisite skill and knowledge, but who does not apply it for particular client, violates obligations under Rule 1.1(a)). Rule 1.1(b) requires a lawyer to “serve a client with skill and care commensurate with that generally afforded to clients by other lawyers in similar matters.” A lack of skill might be reflected in a lawyer’s inability to follow court procedures to the detriment of her client. *See, e.g., In re Johnson*, 298 A.3d 294, 311 (D.C. 2023).

A lawyer violates Rule 1.1 only if there is a “serious deficiency” in the representation of a client, whereby the attorney commits “an error that prejudices *or could have prejudiced* a client and the error was caused by a lack of competence.” *In re Yelverton*, 105 A.3d 413, 421-22 (D.C. 2014) (emphasis added) (quoting *In re Evans*, 902 A.2d 56, 69-70 (D.C. 2006) (per curiam) (appended Board Report)).

The Hearing Committee concluded that Respondent failed to meet the standard of care for family law practitioners when she (1) missed court and discovery deadlines, (2) failed to appear at two hearings, (3) failed to follow Judge Wingo's instructions as to how to prove compliance with discovery obligations at the October 2021 hearing, and (4) failed to adopt technology to allow her to work from home. HC Rpt. at 65-71. It found that she also failed to provide competent representation because she failed to engage in the thoroughness and preparation reasonably necessary to respond to discovery requests and correct her mistakes. *Id.* at 73. The Hearing Committee found that Disciplinary Counsel failed to prove that Mr. Berry was actually prejudiced by Respondent's conduct. It determined that it was unclear whether Mr. Berry could have obtained a more favorable outcome with competent representation. The Hearing Committee also concluded that because Mr. Berry was jointly sanctioned, in part because of his own behavior, he was not actually prejudiced. The Hearing Committee found that because Mr. Berry could have been prejudiced, that was a sufficient basis on which to find violations of Rules 1.1(a) and (b). *Id.* at 73-76.

In addition to her argument that the Hearing Committee should not have relied on Ms. McKinney's testimony, which we have addressed in Subsection B, *supra*, Respondent contends that the Committee overly relied on adverse rulings and should have focused on final orders that were more favorable to Mr. Berry, R. Br. at 15, and that the Committee's finding of no actual harm to Mr. Berry should preclude a

finding of a Rule 1.1 violation because a finding of potential prejudice would involve speculation. *Id.* at 10.

We agree with the Hearing Committee that Respondent violated Rules 1.1(a) and (b) based on the same actions and inaction discussed in the Hearing Committee Report: missing court and discovery deadlines, failing to appear at two hearings, failing to demonstrate compliance with discovery obligations as directed by Judge Wingo, and failure to use technology necessary for the representation. We depart from the Hearing Committee's finding that Disciplinary Counsel failed to show actual prejudice to Mr. Berry arising from Respondent's lack of competence. Specifically, we find that Mr. Berry suffered actual harm in two instances:

Most importantly, Respondent's failure to demonstrate her compliance with discovery requests during the October 13, 2021 hearing resulted in an order of default with respect to the divorce. FF 77. The Hearing Committee found that Respondent did not suffer prejudice because Disciplinary Counsel did not establish that Mr. Berry would have obtained a better result absent the default, notwithstanding Ms. McKinney's expert opinion that the property division "heavily favored Mrs. Berry and Mr. Berry received less than would have been expected if he had been able to submit evidence." *See* HC Rpt. at 73-74. But Disciplinary Counsel was not required to prove that Mr. Berry could have received greater than a 45% share of the marital home (FF 85), for example, if he had been permitted to submit evidence—which would be a difficult burden to meet. Rather, regardless of the result, depriving Mr. Berry of the *opportunity* to present evidence constituted

actual prejudice. *See, e.g., In re Speights*, Board Docket No. 12-BD-017 (BPR Oct. 11, 2016), appended Hearing Committee Report at 31 (finding prejudice as part of the committee’s sanction analysis “irrespective of the likelihood of prevailing on [a] claim” where the respondent’s misconduct “denied his client an opportunity for a decision on the merits”), *recommendation adopted*, 173 A.3d 96 (D.C. 2017) (*per curiam*).

On two occasions, Judge Wingo imposed monetary sanctions on Respondent and Mr. Berry jointly, ordering them to pay Mr. Markowicz’s attorney’s fees. Specifically, on May 24, 2021, Judge Wingo ordered Respondent and Mr. Berry to pay \$4,427.50 in attorney’s fees incurred for seeking discoverable documents from Mr. Berry and for Mr. Berry’s “late production of discoverable documents well-past the discovery deadline.” FF 36. On June 11, 2021, Judge Wingo again ordered Respondent and Mr. Berry to pay attorney’s fees for missing the first portion of a scheduled hearing, FF 38-39. The Hearing Committee concluded that, because Judge Wingo found both Respondent and her client at fault, it could not find that Respondent’s conduct “brought on this harm to Mr. Berry.” HC Rpt. at 75. We disagree. Respondent could have avoided sanctions on her client by providing competent representation. The discovery sanctions did not result from Respondent’s failure to produce documents that should have been provided by Mr. Berry, but rather from Respondent’s failure to provide complete responses to interrogatories and to identify the discovery she had provided. FF 25-27, 31-36.

Certainly, the client plays a critical role in discovery. The client is responsible for gathering responsive documents and providing them to their counsel. However, to comply with their ethical obligations under Rule 1.1(a), attorneys must do more than simply forward the documents that the client thinks are relevant. The attorney is responsible for guiding the client through the discovery process, including advising the client on whether particular documents must be produced and identifying the risks associated with non-compliance. *See* Tr. 389-392. The attorney is required to have the skills, technological expertise, and judgment to properly ensure the client timely meets his or her discovery obligations. Ultimately, the attorney—as an officer of the court and the client’s fiduciary—has a non-delegable role in providing compliant discovery. Thus, an attorney who is aware of a deficiency in their client’s disclosures may not be absolved from responsibility for the deficient discovery on the grounds that the client did not comply with the discovery obligations. Similarly, although the client plays a critical role in handling interrogatories, the attorney is responsible for confirming that the client’s answers to the interrogatories are complete, accurate, and responsive. Where an attorney merely asserts that the answers to an interrogatory may be found somewhere in a disorganized, unindexed tranche of documents, the attorney has not met their ethical obligation of full compliance.

Respondent’s argument in this case that there was no actual prejudice ignores the respective roles of the parties. Inadequate representation in both the document production and interrogatory responses exposes the client unnecessarily to litigation

risks and sanctions. And this is exactly what occurred here: Mr. Berry was sanctioned one-half of \$4,427.50 for discovery violations caused by Respondent's repeated failure to produce documents in a format where the documents could be identified. This constitutes actual prejudice.

Mr. Berry was sanctioned a second time and ordered to pay attorney fees for missing the first thirty minutes of a hearing on June 11, 2021. Even though both Respondent and Mr. Berry were present when Judge Wingo scheduled the June 11 hearing, only Respondent was served with Judge Wingo's written order reminding the parties of the June 11 hearing. DCX 40 at 9-10; RX 23 at 380-381; DCX 87 at 2-3; FF 28. Having received two notices of the hearing date, which was set to accommodate her own schedule and to argue her client's motion, a competent attorney would have ensured her client appeared on time for the June 11 hearing by entering the hearing date into her calendar and thus would have avoided monetary sanctions for her client. DCX 87 at 2-3; *see* DCX 40 at 9-10; RX 23 at 380.

D. Rule 1.3(c)

Rule 1.3(c) provides that an attorney "shall act with reasonable promptness in representing a client." The Court has held that failure to take action for a significant time to further a client's cause, regardless of whether prejudice to the client results, violates Rule 1.3(c). *See, e.g., In re Speights*, 173 A.3d 96, 101 (D.C. 2017) (*per curiam*).

The Hearing Committee found that Respondent violated Rule 1.3(c) when she failed to file timely discovery responses, filed an opposition to a motion for pendente

lite relief more than two weeks late, without explanation, and filed an opposition to a motion for sanctions one day late, having already received an extension, because a printer malfunction prevented her from reviewing a hard copy. HC Rpt. at 78-79.

Respondent contends that the Hearing Committee should have taken the COVID-19 pandemic-era disruption into account when deciding whether any delays were reasonable under the circumstances. R. Br. at 17. Respondent's argument otherwise focuses on whether she filed Mr. Berry's answer late—a charge the Hearing Committee did not find and Disciplinary Counsel does not contest. *Id.* at 17-18.

We agree with the Hearing Committee that Respondent's untimely discovery responses and late-filed pleadings violated her duty to act with "reasonable promptness." Respondent has not articulated how COVID-19 pandemic-era disruptions would have interfered with her ability to respond to discovery requests to the degree at issue in this case, she did not provide a reason for filing her opposition to the motion for pendente lite relief more than two weeks late, and an inability to print a document is not a reasonable excuse for failure to electronically file it by the deadline.

E. Rules 3.4(c) and (d)

Rule 3.4(c) provides that a lawyer shall not "[k]nowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists." The "knowledge" element requires proof of "actual knowledge of the fact in question," which "may be inferred from

circumstances.” Rule 1.0(f). Failure to comply with a court order falls within the scope of the Rule. *See, e.g., In re Blackwell*, 299 A.3d 561, 570 (D.C. 2023).

Rule 3.4(d) provides, in relevant part, that a lawyer shall not, “[i]n pretrial procedure, . . . fail to make reasonably diligent efforts to comply with a legally proper discovery request by an opposing party.” Comment [2] to Rule 3.4 provides that, when a client is assisting a lawyer in responding to discovery requests, “the lawyer’s obligations are to pursue reasonable efforts to assure that documents and other information subject to proper discovery requests are produced.”

The Hearing Committee found that Respondent violated Rule 3.4(c) because she was aware of, but failed to comply with, her obligations under Rules 33 and 34 of the Superior Court Rules Governing Domestic Relations Proceedings by failing to provide responses to interrogatories and discovery requests. HC Rpt. at 81-82. It found that her failure to comply with proper discovery requests—leading Judge Wingo to impose sanctions—violated Rule 3.4(d). *Id.* at 84.

Respondent contends that discovery disputes were resolved through routine procedures, and that it is not enough to view examples of deficient responses in isolation, but Disciplinary Counsel should have submitted evidence as to what was actually produced in the discovery portal.⁵ R. Br. at 19-20; R. Reply Br. at 2.

⁵ Respondent also contends that she did not violate Rule 3.4(c) by failing to appear for the June 11, 2021 hearing, because her failure to calendar the hearing did not reflect knowing disobedience. R. Br. at 19. The Hearing Committee agreed, *see* HC Rpt. at 82 n.42, and Disciplinary Counsel did not take exception to that finding.

We agree with the Hearing Committee that Respondent’s knowing failure to timely comply with her discovery obligations, which violated Rule 1.1(b), also violated Rules 3.4(c) and 3.4(d). *See* HC Rpt. at 82-83. As the Hearing Committee found, the discovery disputes in this case were not routine; rather, they caused unnecessary expenditure of time in multiple discovery hearings. FF 89-90; HC Rpt. at 65-66. To find a failure to comply with proper discovery requests, it was not necessary for the Hearing Committee, or Disciplinary Counsel’s expert, to examine the precise documents Respondent ultimately produced. Rather, Respondent conceded that her responses were inadequate, arguing that she “responded to *nearly* every discovery request, though occasionally *untimely*.” HC Rpt. at 83 (quoting Respondent’s Brief to the Hearing Committee at 51) (emphasis added). Similarly, Respondent testified that she was only responsible for passing along information that Mr. Berry gave to her. FF 73. She told Mr. Berry that his production was not adequate but agreed to submit it anyway, without qualification. HC Rpt. at 84; *see, e.g.*, Tr. 1018-19. Still, she had not produced even basic information that had been requested eighteen months earlier—a failure so significant that Judge Wingo declined to consider all of the alleged discovery failures raised by Mr. Markowicz. FF 71. Thus, regardless of how many documents she produced, her actions reflect a failure to make reasonably diligent efforts to comply with discovery requests.

F. Rule 8.4(c)

Rule 8.4(c) provides that it is professional misconduct for a lawyer to “[e]ngage in conduct involving dishonesty, fraud, deceit, or misrepresentation.”

Dishonesty includes “not only fraudulent, deceitful or misrepresentative conduct, but also ‘conduct evincing a lack of honesty, probity or integrity in principle; a lack of fairness and straightforwardness.’” *In re Samad*, 51 A.3d 486, 496 (D.C. 2012) (per curiam) (quoting *In re Shorter*, 570 A.2d 760, 767-68 (D.C. 1990) (per curiam)). To prove a violation of Rule 8.4(c), Disciplinary Counsel must establish that the dishonest conduct was either intentional or reckless—i.e., that the respondent “consciously disregarded the risk” created by her actions. *In re Romansky*, 825 A.2d 311, 315, 317 (D.C. 2003). The entire context of a respondent’s actions, including their credibility at the hearing, is relevant to a determination of intent. *See In re Ekekwe-Kauffman*, 210 A.3d 775, 796-97 (D.C. 2019) (per curiam).

The Hearing Committee found that Respondent violated Rule 8.4(c) when she submitted the joint pretrial statement, representing to the court that Mr. Markowicz had filed it when he had not. HC Rpt. at 88-90. The Committee found that Respondent had acted intentionally, because she knew Mr. Markowicz had not approved a joint filing but submitted the filing with no indication that he had not approved it, and rejected Respondent’s explanation that she felt required to submit a joint statement, as opposed to a separate statement like the one Mr. Markowicz had filed. *Id.* at 89, 91.

Respondent contends that she did not intend to deceive the court, since she used the language Mr. Markowicz previously sent her, and Judge Wingo simply

struck the statement after Mr. Markowicz objected.⁶ R. Br. at 21-22. We do not agree. In submitting a “joint” pretrial statement, Respondent represented to the court that both parties had approved it, and by typing Mr. Markowicz’s initials and adding his name to the certificate of service, Respondent represented that he had reviewed it before it was filed. That was false. When striking the statement from the record, Judge Wingo found that Respondent’s submission “falsely suggest[ed] to the Court that [Mr. Markowicz] approved the document.” FF 63. Respondent acted intentionally by altering the document and submitting it, knowing that she had not obtained his approval. *See* HC Rpt. at 90-91.

G. Rule 8.4(d)

Rule 8.4(d) provides that it is professional misconduct for a lawyer to “[e]ngage in conduct that seriously interferes with the administration of justice.” To establish a violation of Rule 8.4(d), Disciplinary Counsel must demonstrate by clear and convincing evidence that: (i) Respondent’s conduct was improper, *i.e.*, that Respondent either acted or failed to act when she should have; (ii) Respondent’s conduct bore directly upon the judicial process with respect to an identifiable case or tribunal; and (iii) Respondent’s conduct tainted the judicial process in more than

⁶ In her Reply Brief, Respondent also argues that because typing one’s initials does not satisfy the Superior Court’s rules for signing electronic pleadings, she could not have forged Mr. Markowicz’s signature by typing his initials. R. Reply Br. at 18-21. But Disciplinary Counsel did not charge Respondent with committing the crime of forgery (in violation of Rule 8.4(b)), and the Rule 8.4(c) analysis does not turn on whether she committed any crime. *See* HC Rpt. at 87 n.45.

a de minimis way, *i.e.*, it must have potentially had an impact upon the process to a serious and adverse degree. *In re Hopkins*, 677 A.2d 55, 60-61 (D.C. 1996).

The Hearing Committee found that Respondent's failure to attend the June 11 and December 20, 2021 hearings violated Rule 8.4(d). It reasoned that the failure to appear was improper because she either knew or should have known when they were scheduled. And her absence at those hearings adversely affected the proceedings, as the June 11 hearing became a waste of time and the December 20 hearing led to a default being entered against her client. HC Rpt. at 93-97. The Committee also found that Respondent's failure to follow court rules and orders when handling discovery violated Rule 8.4(d), because it caused the court to issue multiple orders and hold multiple hearings to resolve discovery disputes, well beyond what would be necessary in an ordinary case. *Id.* at 97-99.

Respondent contends that the proceeding was not tainted by any of her conduct because the case was ultimately resolved and the final order did not require payment of additional attorney's fees to Mr. Markowicz based on discovery violations. R. Br. at 15, 27-28. She contends that any disruptions she caused did not constitute a "serious adverse impact" beyond "ordinary litigation friction." *Id.* at 27-28. She also accuses Mr. Markowicz of seriously interfering with the administration of justice. R. Br. at 24-27; R. Reply Br. at 28.

Her failure to appear at the June 11 hearing was improper because, as discussed in Section III.C, *supra*, Respondent knew about the hearing when it was scheduled but failed to appear. While Respondent did not see the repeated

notifications scheduling the December 20, 2021 hearing, it was neglectful, and thus improper, for her to fail to check her messages. FF 80-82; *see* HC Rpt. at 96-97. Respondent's failures to appear for hearings bore directly on and tainted the proceedings in more than a de minimis way: Respondent's failure to appear at the June 11 hearing caused the first thirty minutes to be a "complete waste of time," while the remainder of the hearing was impeded by Respondent's lack of preparation to defend her own motion. FF 41-44. Respondent's failure to appear at the December 20 hearing led to a default judgment against her client on the issues of child support and custody, which was reversed only after Respondent admitted that she did not inform Mr. Berry of the hearing. FF 77-78, 83-85; *see* HC Rpt. at 96-98.

As the Hearing Committee found, Respondent's conduct went far beyond ordinary litigation friction. Furthermore, as discussed in Section III.E, *supra*, it was improper for Respondent to fail to comply with discovery rules and orders. That conduct also bore directly on and tainted the proceedings in more than a de minimis way because it caused the court to issue multiple orders and schedule several discovery hearings, one of which took an entire day, primarily dealing with the adequacy of Respondent's discovery responses. *See* HC Rpt. at 99.

IV. SANCTION

The sanction imposed in an attorney disciplinary matter must protect the public and the courts, maintain the integrity of the legal profession, and deter the respondent and other attorneys from engaging in similar misconduct. *See, e.g., In re Hutchinson*, 534 A.2d 919, 924 (D.C. 1987) (en banc); *In re Martin*, 67 A.3d 1032,

1053 (D.C. 2013); *In re Cater*, 887 A.2d 1, 17 (D.C. 2005). “In all cases, [the] purpose in imposing discipline is to serve the public and professional interests . . . rather than to visit punishment upon an attorney.” *In re Reback*, 513 A.2d 226, 231 (D.C. 1986) (en banc) (citations omitted); *see also In re Goffe*, 641 A.2d 458, 464 (D.C. 1994) (per curiam). The sanction must not “foster a tendency toward inconsistent dispositions for comparable conduct or . . . otherwise be unwarranted.” D.C. Bar R. XI, § 9(h)(1); *see, e.g., Hutchinson*, 534 A.2d at 923-24; *Martin*, 67 A.3d at 1053; *In re Berryman*, 764 A.2d 760, 766 (D.C. 2000).

As noted above, the Hearing Committee recommended that Respondent receive a six-month suspension, with three months stayed in favor of one year of supervised probation with a practice-management consultation, practice monitoring, and CLE requirements. While it no longer advocates for a fitness requirement, Disciplinary Counsel contends that Respondent should receive a one-year suspension, fully served, along with probation and the conditions recommended by the Hearing Committee. ODC Br. at 31-37. Respondent contends that all charges should be dismissed as unsupported by clear and convincing evidence. R. Br. at 31. In her Reply Brief, she argues that, if any suspension is imposed, it should be stayed in favor of probation based on the COVID-19 pandemic-era context, improper conduct by Disciplinary Counsel, the few Hearing Committee findings in her favor, her long career, and the absence of actual prejudice. R. Reply Br. at 30-32.

A. Application of Sanction Factors

1. Seriousness of the Misconduct

Respondent contends that she did not violate any Rules of Professional Conduct, claiming that the incidents in question were nothing more than “ordinary litigation friction.” *See* R. Br. at 27-28, 31. The Hearing Committee rejected this assertion, and found Respondent violated seven separate rules. For the reasons stated above, we agree with the Hearing Committee.

Respondent’s dishonesty and lack of competence continued over an extended period. Respondent demonstrated dishonesty with respect to the joint pretrial statement, as well as repeated false statements to the court about the completeness of the discovery production. After failing to comply with numerous discovery orders and missing court hearings, Respondent was sanctioned on two occasions.

Additionally, two default judgments were entered against her client. In one missed hearing, Respondent failed to appear for a hearing on her own motion. FF 28, 38. When she finally joined—after the judge’s clerk contacted her—she was unprepared to proceed, prompting Judge Wingo to state that the proceeding was a “waste of time.” FF 39, 41. In a second incident on December 20, 2021, Respondent and her client again failed to appear despite numerous notices, prompting the judge to enter the second default judgment.⁷ FF 75-78. Accordingly, as Respondent’s lack of competence necessitated numerous—often unproductive—hearings, and had a

⁷ The second default judgment was subsequently vacated in part. FF 84.

substantial negative impact on the judicial process, we reject her attempts to minimize the seriousness of her misconduct. *See Hopkins*, 677 A.2d at 60-61.

2. Prejudice to the Client

The Committee did not find that Mr. Berry suffered actual harm. HC Rpt. at 101-02. Disciplinary Counsel disagrees, arguing that Respondent could have prevented monetary sanctions against him by complying with discovery requirements and that the default orders are inherently harmful. ODC Br. at 32-33. We agree. As explained in Section III.C, *supra*, Respondent caused prejudice to Mr. Berry in two ways: the order of default and the monetary sanctions for which he was held jointly responsible. FF 36, 39, 77. Regardless of whether Mr. Berry would have fared better if he had a chance to present evidence in a full hearing, rather than a default hearing, *see* FF 84, he was harmed because he lost that opportunity. And Respondent could have taken steps to avoid sanctions by complying with discovery requests, being clear and forthcoming about what information was missing, and ensuring she would attend all scheduled hearings. Regardless of whether Mr. Berry was partially at fault as well, the prejudice caused by Respondent weighs in favor of a more severe sanction than that recommended by the Hearing Committee.

3. Dishonesty

In addition to the Rule 8.4(c) violation discussed above, the Committee considered in aggravation that Respondent repeatedly made false assertions to Judge

Wingo that discovery had been provided.⁸ HC Rpt. at 104. We agree that there have been several instances of dishonesty to the court.

4. Violations of Other Disciplinary Rules

We find that Respondent violated seven Rules. As Disciplinary Counsel points out, while the violations arose from a single representation, they constituted separate instances of misconduct over a long period of time. ODC Br. at 31-32. We agree that this factor weighs in favor of a more severe sanction than that recommended by the Hearing Committee.

5. Prior Discipline

Respondent has received two informal admonitions: first, in 1998, for violating Rules 3.4(c), 4.2(a), and 8.4(d), and second, in 2018, for violating Rule 1.4(a). *See* FF 103. We agree with the Hearing Committee that the prior disciplines are a significant factor in aggravation of sanction. While the 1998 admonition was issued decades ago, it involved similar misconduct, and Respondent's recent prior

⁸ Respondent contends that considering this uncharged dishonesty in aggravation of sanction violated her due process rights, but has not explained how she was prejudiced. R. Br. at 29-30. The Hearing Committee pointed out that she defended against the allegation on the merits and did not claim she would have presented any additional evidence to rebut it. HC Rpt. at 103-04. We similarly find that Respondent is not prejudiced by our consideration of dishonesty to Judge Wingo in aggravation of sanction. *See In re Fay*, 111 A.3d 1025, 1032 (D.C. 2015) (per curiam) (providing that, to prove she was denied due process by the Hearing Committee, “respondent must show that the Committee erred and that the error ‘resulted in substantial prejudice’” (quoting *In re Thyden*, 877 A.2d 129, 140 (D.C. 2005))).

discipline is also concerning, even though the conduct is unrelated. *See* HC Rpt. at 105.

6. Acknowledgement of Wrongful Conduct

The Hearing Committee found that Respondent has not acknowledged the seriousness of her misconduct. We agree. Respondent blames the trial court judge, the Hearing Committee Chair, the disciplinary system, and others involved with these proceedings, rather than taking any personal responsibility. Her allegations range from complaints about the procedural integrity and composition of the Hearing Committee to claims of misconduct by the Committee Chair; Assistant Disciplinary Counsel; Disciplinary Counsel's expert witness (whom she accuses of bias); opposing counsel; and her own client. Finding that these allegations lacked any factual support, the Hearing Committee summarily dismissed them. We agree.

In a telling example of her unacknowledged misconduct, Respondent engaged in wrongful conduct immediately after accusing opposing counsel of doing so. Respondent erroneously concluded that opposing counsel submitted a joint pretrial statement without her approval. FF 59. Later that evening, she filed a joint pretrial statement *purportedly signed* by opposing counsel; she did not send this document to opposing counsel for approval. FF 61-62. Rather than accepting responsibility for her error, or for her misconduct based on this error, she attempted to distinguish her conduct with hyper-technical distinctions rejected by the Hearing Committee and this Board.

Failure to accept responsibility for her numerous, clearly established Rule violations is extremely troubling.

7. Other Circumstances in Aggravation of Mitigation

Respondent asks the Board to consider (1) the disruptions caused by the COVID-19 pandemic; (2) the purported weaponization of the disciplinary process by Mr. Markowicz; (3) the instances in which the Hearing Committee disagreed with Disciplinary Counsel; (4) Respondent's successful forty-nine-year career; and (5) the absence of prejudice. We do not find any of these factors persuasive. First, the context of the COVID-19 pandemic—and the requirement to adapt to new technology—was taken into account when the Hearing Committee considered the standard of care. *See* FF 90-92. We do not find the motives of the complainant to be relevant to the violations or appropriate sanction. The fact that the Hearing Committee found against Disciplinary Counsel on certain issues is irrelevant, as our recommended sanction is only based on misconduct Disciplinary Counsel proved by clear and convincing evidence. While Respondent established that she has achieved positive results for clients in certain cases, *see* FF 106, the fact that she has been previously sanctioned on two occasions undermines the mitigating value of her long career. Finally, we disagree with the Hearing Committee on the issue of prejudice to the client and consider it to be an aggravating factor, as explained above.

B. Sanctions Imposed for Comparable Misconduct

Disciplinary Counsel contends that filing the joint pretrial statement alone would warrant a six-month suspension under *Reback*. ODC Br. at 34-35. While the

dishonesty in *Reback* is similar to that at issue here, in that the respondents signed their client's name to a verified complaint without authorization, confident they had already approved the language therein, the conduct there was more serious because the respondents engaged in dishonesty in order to cover up their neglect; specifically, the respondents would avoid having to tell their client that they had let their case be dismissed for failure to prosecute. *See Reback*, 513 A.2d at 231. Here, by contrast, Respondent engaged in dishonesty because she panicked. FF 60.

Still, Respondent's dishonesty to the court and prejudice to the client make her misconduct more serious than in the cases cited by the Hearing Committee in which relatively brief suspensions have been imposed for minor dishonesty without serious additional misconduct. *See HC Rpt.* at 110-12. In *Reback*, the misconduct only caused minor prejudice in the form of delay. *Reback*, 513 A.2d at 231-32. By contrast, Respondent's misconduct unrelated to the joint pretrial statement caused substantial prejudice in the form of monetary sanctions and default orders. Taking into account the other aggravating factors, particularly her failure to take responsibility for her conduct, Respondent should receive at least as long a suspension as in *Reback*, and a one-year suspension would be consistent with sanctions imposed for comparable misconduct.

C. Stay, Reinstatement Conditions, and Probation

Because we share the Hearing Committee's view that the additional violations unrelated to dishonesty may be addressed by making improvements to Respondent's practice, we agree that consultation with PMAS and six hours of CLE in practice

management and technology should be conditions of reinstatement from the six-month suspension, and that, after serving the six-month suspension, she should serve a one-year term of probation under the supervision of a practice monitor. If Respondent is unable to comply with the practice monitor's recommendations before the expiration of the term of probation, Disciplinary Counsel should be able to seek to revoke her probation and require her to serve the stayed six-month suspension, and that suspension should continue until the practice monitor certifies to Disciplinary Counsel that Respondent has remedied the problem that resulted in probation revocation.

Disciplinary Counsel contends that staying any portion of the suspension is not appropriate here, because there are no circumstances that “explain or blunt [Respondent’s] culpability.” ODC Br. at 36 (quoting *In re Dobbie*, 305 A.3d 780, 814 (D.C. 2003)). As the Court recently clarified, however, such circumstances are not prerequisites for imposing a stayed suspension. *See In re Villarreal*, 339 A.3d 99, 103-04 (D.C. 2025) (per curiam) (clarifying that the *Dobbie* standard was not the only basis on which to stay a suspension and imposing a stayed thirty-day suspension where the misconduct was more serious than cases resulting in non-suspensory sanctions but more serious than cases resulting in served suspensions). Here, a stay is a practical component of a remedial suspension; as the Court reasoned in *In re Askew*:

To the extent Ms. Askew needs time to restructure her practice . . . 60 days should give her the time she needs. A concurrently commencing one-year period of supervised probation—with all conditions

recommended by the Board—will ensure that Ms. Askew has in fact taken all the steps needed to have a properly functioning law practice.

96 A.3d 52, 62 (D.C. 2014) (per curiam). As in *Askew*, the one-year period of probation will ensure that Respondent has remedied the underlying cause of the practice-related misconduct. In the end, we believe the public will be better protected by this arrangement than by a rigid one-year suspension. See *In re Elgin*, 918 A.2d 362, 383-84 (D.C. 2007) (“[O]ur purpose in conducting disciplinary proceedings and imposing sanctions is not to punish the attorney; rather, it is to offer the desired protection by assuring the continued or restored fitness of an attorney to practice law” (quoting *In re Bettis*, 855 A.2d 282, 287 (D.C. 2004))).

V. CONCLUSION

For the foregoing reasons, the Board finds that Respondent violated Rules 1.1(a), 1.1(b), 1.3(c), 3.4(c), 3.4(d), 8.4(c), and 8.4(d), and should receive the sanction of a one-year suspension with six months stayed in favor of one year of supervised probation with practice monitoring. As a condition of reinstatement from the six-month served suspension, Respondent should be required to (1) attend six hours of CLE courses in practice management and technology; and (2) meet with Dan Mills, Esquire, Manager of the Practice Management Advisory Services (PMAS) of the District of Columbia Bar (or his successor or designee) to obtain a full assessment of her law practice. The assessment should include recommendations for the conduct of Respondent’s practice following the end of the period of suspension. At that meeting, Respondent should be required to execute a waiver allowing PMAS to communicate directly with the Office of Disciplinary

Counsel regarding her compliance and shall make any and all records relating to her practice available for PMAS to review.

Following the six-month served suspension, Respondent should serve a one-year term of probation under the supervision of a practice monitor, with the following conditions:

(1) Within thirty days of the Court's order imposing discipline, Respondent shall accept the terms of probation by countersigning the Board order implementing the probation. *See* Board Rule 18.1(a).

(2) During her probation, Respondent shall consult regularly with Mr. Mills and/or the assigned practice monitor on the schedule PMAS establishes. Respondent must be in full compliance with Mr. Mills and/or the assigned practice monitor's recommendations for the entire period of probation. Mr. Mills and/or the assigned practice monitor will submit quarterly (every three months) written reports to the Board, with copies to Disciplinary Counsel and Respondent.

(3) Respondent will not be required to notify her clients of her probation.

(4) If Mr. Mills and/or the assigned practice monitor reports that Respondent has not complied with his or her recommendations during the period of probation, Disciplinary Counsel may seek to revoke her probation and require her to serve the stayed six-month suspension, with reinstatement conditioned on Mr. Mills and/or the assigned practice monitor's certification that Respondent has remedied the problem that resulted in probation revocation. *See* Board Rule 18.3. Disciplinary

Counsel may ask the Court to toll the term of probation pending the resolution of any probation revocation proceeding. Board Rule 18.3(b).

We further recommend that Respondent's attention be directed to the requirements of D.C. Bar R. XI, § 14, and their effect on eligibility for reinstatement. *See* D.C. Bar R. XI, § 16(c).

BOARD ON PROFESSIONAL RESPONSIBILITY

By: *Jay Brozost*
Jay Brozost

All members of the Board concur in this Report and Recommendation.