

IN THE SUPREME COURT  
OF THE STATE OF OREGON

In re: )  
)  
Complaint as to the Conduct of ) Case No. 21-69  
)  
SEAN O'HALLORAN, )  
)  
Respondent. )

Counsel for the Bar: Rebecca Salwin

Counsel for the Respondent: Peter R. Jarvis

Disciplinary Board: None

Disposition: Violation of RPC 1.3 and RPC 1.15-1(d). Stipulation for Discipline. 30-day suspension.

Effective Date of Order: June 15, 2022

**ORDER APPROVING STIPULATION FOR DISCIPLINE**

This matter having been heard upon the Stipulation for Discipline entered into by Sean O'Halloran (Respondent) and the Oregon State Bar (Bar), and good cause appearing,

IT IS HEREBY ORDERED that the stipulation between the parties is approved and Respondent is suspended for 30-days, effective June 15, 2022, for violation of RPC 1.3 and RPC 1.15-1(d).

DATED this 25th day of April, 2022.

/s/ Mark A. Turner  
Mark A. Turner  
Adjudicator, Disciplinary Board

**STIPULATION FOR DISCIPLINE**

Sean O'Halloran, attorney at law (Respondent), and the Oregon State Bar (Bar) hereby stipulate to the following matters pursuant to Bar Rule of Procedure 3.6(c).

1.

The Bar was created and exists by virtue of the laws of the State of Oregon and is, and at all times mentioned herein was, authorized to carry out the provisions of ORS Chapter 9, relating to the discipline of attorneys.

2.

Respondent was admitted by the Oregon Supreme Court to the practice of law in Oregon on September 19, 1975, and has been a member of the Bar continuously since that time, having his office and place of business in Multnomah County, Oregon.

3.

Respondent enters into this Stipulation for Discipline freely, voluntarily, and with the advice of counsel. This Stipulation for Discipline is made under the restrictions of Bar Rule of Procedure 3.6(h).

4.

On October 15, 2021, a formal complaint was filed against Respondent pursuant to the authorization of the State Professional Responsibility Board (SPRB), alleging violation of RPC 1.3 and RPC 1.15-1(d) of the Oregon Rules of Professional Conduct. The parties intend that this Stipulation for Discipline set forth all relevant facts, violations and the agreed-upon sanction as a final disposition of the proceeding.

### **Facts**

5.

Respondent represented Carole Morris (Morris) on claims stemming from her June 14, 2016 motor vehicle accident. In June 2018, Respondent, on behalf of Morris, had accepted a settlement offer and received \$25,000 to settle Morris's claims against the at-fault driver. On June 19, 2018, Respondent deposited Morris's \$25,000 settlement funds into his lawyer trust account, and within a month, had paid himself \$6,000 in legal fees from the funds with the intent to disburse the appropriate settlement funds to Ms. Morris, as well. Respondent had questions about when he could distribute Morris's settlement funds to her, but he did not take any proactive steps to find out or to distribute them. He did not distribute her funds to her for another 31 months, or until January 2021, after she filed a Client Security Fund (CSF) claim against him. Settlement funds distributed to Ms. Morris at that time were in excess of the amount that Respondent believed were owed under their contingency fee agreement.

6.

Meanwhile, Morris's insurance company had denied her uninsured/underinsured motorist (UIM) claim. Respondent was aware that to preserve Morris's UIM claims under her insurance policy and relevant statute, he would need to file a lawsuit or initiate formal arbitration within a two-year limitations period, or by June 14, 2018. Respondent orally requested arbitration to Ms. Morris's UIM carrier on a telephone call on June 11, 2018. However, he did not provide a written notice until over one month late, on July 20, 2018. The next month, on August 22, 2018, Ms. Morris' UIM carrier wrote him that he had not timely submitted a UIM claim. Respondent noted in his file his concerns about failing to timely preserve her claims. On May 9, 2019, Respondent met with Morris and advised her that he would attempt to remedy his error within the next 30 days. However, Respondent knowingly failed to take any further substantial action on Morris's legal matter.

### Violations

7.

Respondent admits that by failing to distribute Morris's \$19,000 in proper contingent settlement funds to her for approximately two-and-a-half years after she was entitled to them, he violated RPC 1.15-1(d). Respondent admits that, by neglecting to timely preserve Morris's claims and neglecting to take any meaningful steps to remedy it thereafter, he violated RPC 1.3.

### Sanction

8.

Respondent and the Bar agree that in fashioning an appropriate sanction in this case, the Disciplinary Board should consider the ABA *Standards for Imposing Lawyer Sanctions* (ABA Standards). The ABA Standards require that Respondent's conduct be analyzed by considering the following factors: (1) the ethical duty violated; (2) the attorney's mental state; (3) the actual or potential injury; and (4) the existence of aggravating and mitigating circumstances.

- a. **Duty Violated.** Duty Violated. The most important ethical duties a lawyer owes are to a client. ABA Standards at 5. Respondent violated his duty of diligence in representing his client, ABA Standard 4.4, and his duty to preserve client property. ABA Standard 4.1.
- b. **Mental State.** The most culpable mental state is that of "intent," when the lawyer acts with the conscious objective or purpose to accomplish a particular result. ABA Standards at 9. "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. *Id.* "Negligence" is the

failure to be aware of a substantial risk that circumstances exist or that a result will follow and which deviates from the standard of care that a reasonable lawyer would exercise in the situation. *Id.* Here, Respondent knowingly neglected his client's legal matter and negligently delayed in distributing her funds.

- c. **Injury.** Injury can be either actual or potential under the ABA Standards. *In re Williams*, 314 Or 530, 547, 840 P2d 1280 (1992). Here, Respondent's client was denied the use of \$19,000 in settlement funds for approximately 31 months.
- d. **Aggravating Circumstances.** Aggravating circumstances include:
  1. Multiple offenses. Standard 9.22(d).
  2. Vulnerability of victim. Standard 9.22(h). Respondent's client was dealing with the terminal illness and death of her husband while these events occurred.
  3. Substantial experience in the practice of law. Standard 9.22(i). Respondent was licensed to practice in Oregon in 1975.
- e. **Mitigating Circumstances.** Mitigating circumstances include:
  1. Absence of dishonest motive. Standard 9.32(b).
  2. Full and free disclosure to disciplinary board or cooperative attitude toward proceedings. Standard 9.32(e).
  3. Remorse. Standard 9.32(l).

9.

Under the ABA Standards, suspension is generally appropriate when a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client, and when a lawyer should know that he is dealing improperly with client property and causes injury or potential injury to a client. ABA Standards 4.12, 4.42.

10.

Under Oregon case law, lawyers who knowingly neglect a legal matter generally receive a suspension. *See In re Snyder*, 348 Or 307, 232 P3d 952 (2010); *In re Redden*, 342 Or 393, 401, 153 P3d 113 (2007) (noting that neglect often results in a 60-day suspension). In similar cases, attorneys have stipulated to a 30-day suspension. *See, e.g. In re Walsh*, 34 DB Rptr 126 (2020) (attorney suspended for 30 days when he represented a client in a personal injury matter from a car accident but neglected her legal matter due to health problems; he misled her about his progress then tried to remedy her financial injury with improper financial assistance); *In re*

*Sterner*, 34 DB Rptr 7 (2020) (attorney suspended for 30 days when he represented a plaintiff on personal injury claims in a legal area that he was unfamiliar with; rather than attempting to attain competence he neglected her claims such that they were dismissed for want of prosecution, and he then failed to revive them such that they became time-barred).

Consistent with the ABA Standards and Oregon case law, the parties agree that Respondent shall be suspended for 30-days for violation of RPC 1.3 and RPC 1.15-1(d), the sanction to be effective on June 15, 2022.

11.

Respondent acknowledges that he has certain duties and responsibilities under the Rules of Professional Conduct and BR 6.3 to immediately take all reasonable steps to avoid foreseeable prejudice to his clients during the term of his suspension. In this regard, Respondent has arranged for an active member of the Bar to either take possession of or have ongoing access to Respondent's client files and serve as the contact person for clients in need of the files during the term of his suspension. Respondent represents that the custodian has agreed to accept this responsibility, and he has lodged the custodian's contact information on file with the Bar. Respondent further represents that all files and records are maintained and managed by his paralegal, Eileen Sublette, eileen@ohalloranassociates.com, (503) 666-6000.

12.

Respondent acknowledges that reinstatement is not automatic on expiration of the period of suspension. He is required to comply with the applicable provisions of Title 8 of the Bar Rules of Procedure. Respondent also acknowledges that he cannot hold himself out as an active member of the Bar or provide legal services or advice until he is notified that his license to practice has been reinstated.

13.

Respondent acknowledges that he is subject to the Ethics School requirement set forth in BR 6.4 and that a failure to complete the requirement timely under that rule may result in his suspension or the denial of his reinstatement. This requirement is in addition to any other provision of this agreement that requires Respondent to attend continuing legal education (CLE) courses.

14.

Respondent represents that, in addition to Oregon, he also is admitted to practice law in the jurisdictions listed in this paragraph, whether his current status is active, inactive, or suspended, and he acknowledges that the Bar will be informing these jurisdictions of the final disposition of this proceeding. Other jurisdictions in which Respondent is admitted: none.

15.

Approval of this Stipulation for Discipline as to substance was given by the SPRB on July 24, 2021. Approval as to form by Disciplinary Counsel is evidenced below. The parties agree the stipulation is to be submitted to the Adjudicator on behalf of the Disciplinary Board for consideration pursuant to the terms of BR 3.6.

EXECUTED this 21st day of April, 2022.

/s/ Sean O'Halloran  
Sean O'Halloran, OSB No. 752824

APPROVED AS TO FORM AND CONTENT:

/s/ Peter R. Jarvis  
Peter R. Jarvis, OSB No. 761868

EXECUTED this 22nd day of April, 2022.

OREGON STATE BAR

By: /s/ Rebecca Salwin  
Rebecca Salwin, OSB No. 201650  
Assistant Disciplinary Counsel