

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 11-136
District Docket No. I-2007-0015E

IN THE MATTER OF :
ARLEEN CABALLERO GONZALEZ :
AN ATTORNEY AT LAW :

Decision

Argued: July 21, 2011

Decided: October 26, 2011

Willis Flower appeared on behalf of the District I Ethics Committee.

Respondent did not appear for oral argument.

To the Honorable Chief Justice and Associate Justices of the Supreme Court of New Jersey.

This matter came before us on a recommendation for a reprimand filed by the District I Ethics Committee (DEC). The complaint charged respondent with violating RPC 1.1(b) (pattern of neglect), RPC 1.3 (lack of diligence), and RPC 1.5(b) (failure to provide client with a writing setting forth the basis or rate of the fee). The presenter withdrew the charged violation of RPC 8.4(d) (conduct prejudicial to the administration of justice).

We determine that a three-month suspension, with conditions on respondent's practice, is warranted.

Respondent was admitted to the New Jersey bar in 1984. She has been ineligible to practice law for failure to pay her annual assessment to the New Jersey Lawyers' Fund for Client Protection (CPF) since September 29, 2008. Prior thereto she was ineligible from November 26, 1987 to March 22, 2002. The CPF's report lists her as retired in 2002.

Respondent has been disciplined before. In a 2010 default matter, she was censured for misconduct in two matters. In both, she was found guilty of lack of diligence and failure to communicate with the clients. In one of the matters, she failed to timely file an appeal. In the other matter, her lack of diligence resulted in the court's issuance of a preliminary injunction shutting down her client's business. Both clients suffered dire consequences. She also failed to keep the clients apprised of the status of their cases and failed to reply to their telephone calls. In one of the matters, she also engaged in the unauthorized practice of law, when she appeared in a Pennsylvania court while on inactive status in that state.

An aggravating factor was respondent's misrepresentations to both clients. Mitigating factors included her unblemished

ethics history and the tragic circumstances in her life, the same circumstances under consideration in this case.

The Court also ordered respondent to submit, prior to reinstatement, proof of fitness to practice law, as attested to by a mental health professional approved by the Office of Attorney Ethics (OAE) and to practice under the supervision of an OAE-approved proctor. In re Gonzalez, 202 N.J. 29 (2010).

Initially, in this disciplinary matter, respondent admitted the allegations of the first and second counts of the complaint, charging her with violating RPC 1.5(b) in five of six matters and RPC 1.3 in three matters, but did not admit a violation of RPC 1.1(b), as charged in the third count of the complaint. At the December 17, 2010 DEC hearing, however, in the midst of the presenter's case, respondent refused to answer any more questions, claiming that the presenter was trying to portray her as a liar. At that time, the panel chair recommended that respondent confer with counsel to decide whether to submit to additional questioning. The hearing concluded and a continuation date was scheduled.

By letter dated December 31, 2010, respondent notified the DEC panel chair that she was no longer contesting the third count of the complaint and admitted the pattern of neglect charge. The chair noted that, on the morning of the

continuation, January 14, 2011, he called respondent to inquire whether she intended to appear. She replied that she would not appear and would rely on the documentation that she had previously submitted. The hearing then proceeded on the pattern of neglect charge, in respondent's absence.

The DEC presenter and another DEC member, Michael Fitzgerald (the investigators) were appointed to investigate problems with respondent's law practice. According to Fitzgerald, the DEC secretary informed them that the DEC had received a number of anonymous complaints/grievances against respondent from people who were reluctant to identify themselves because of, according to the complaint, "their questionable legal immigration status." Therefore, no individual grievances had been filed. The individuals/grievants complained that respondent had accepted retainers without performing the services for which she had been retained.

Because the identity of the grievants was not known, the complaint alleged that the investigation bore a resemblance to a "random audit." To determine whether there was a basis for the alleged misconduct, the investigators requested that respondent produce files of clients whom she had represented. The investigators targeted the period from approximately 2005 to 2007. That period was the time that, according to respondent,

she had been distracted from her practice because of tragic events in her life (from mid-2005 to Spring 2006), namely, her father's murder of her mother and his attempted suicide. As a result of those events, respondent spent a considerable amount of time in Florida, where her parents resided.

At the DEC hearing, respondent testified that the period after her mother's death was very difficult and stressful and explained that she was distracted from her law practice. She devoted a significant amount of time assisting in her father's legal defense and in providing care for him. She was out of New Jersey for considerable periods of time. She admitted further that the situation had a negative impact on her ability to practice law.

Respondent acknowledged that, prior to becoming a sole practitioner, she had no experience managing a law office. Moreover, she had not actively practiced law for approximately twenty years, while raising her children. According to respondent, following her graduation from law school, she practiced law in Vineland, New Jersey, for approximately two years, before accepting a job to teach at Stockton College. Among other courses, she taught criminal law and procedure.

In 2004 or 2005, respondent opened an office in Pleasantville, New Jersey, as a sole practitioner. She handled

mostly municipal court and family matters, not immigration law or estate law matters. She conceded that her practice lacked "systems and controls." In addition, she stated that, because she charged a flat fee for services, she did not bill her clients or keep time records.

According to Fitzgerald, although respondent did not initially reply to the DEC's written request for information, she met with the investigators, on October 31, 2007, for several hours. The investigators requested that she produce the files for clients who had sought the return of their retainers and also the financial records that would support her receipt and/or refund of retainers.

Respondent produced more case files than those cited in the complaint. The investigators reviewed between fifteen and twenty files, out of more than 100 contained in a list that respondent had prepared. The investigators relied on respondent to be "forthcoming" in identifying files where the clients had expressed dissatisfaction with her services.

Fitzgerald stated that, during the course of the investigation, respondent "appeared to be forthcoming." Although the investigators requested information to "back up" her contentions that she had refunded retainers, she was unable to produce any supporting ledgers or client ledger cards for their

review. Respondent relied on her checkbook register, instead of client ledgers, to determine to whom refunds were made. Fitzgerald believed that the documentation was just not available.

Respondent admitted that she did not maintain a docketing system in her office. As to records reflecting receipts and disbursements for retainers, respondent asserted that she had turned over for the DEC investigation "little green books that [she] bought at Staples." She recorded "the money that came in and the money that went out. Not specifically to any client because it was a flat fee."

The investigators determined that, in light of the minor nature of respondent's unethical conduct, her cooperation during the investigation, and her submission of mitigating circumstances, the case was ripe for diversion. They entered into an agreement in lieu of discipline with respondent. Respondent, however, failed to comply with the conditions of the agreement, despite having been afforded multiple opportunities to do so. As a result, the OAE directed the DEC to file a formal ethics complaint.

Respondent claimed that she had not read the entire agreement when she had signed it, but had a sense of what was in it, based on her conversations with the presenter. She

understood that the agreement dealt with her failure to provide clients with retainer agreements, not her failure to act with diligence. She read the parts concerning the conditions with which she had to comply. Section E, directly above the parties' signatures, stated that, if the agreement were accepted, it was valid and a copy of it would be admissible "but only in this and any subsequent disciplinary proceeding as evidence of the Respondent's unethical conduct."

By signing the agreement, respondent admitted that, when she opened her office as a sole practitioner, "she was almost entirely lacking in the requisite experience to operate a law office. In addition to an almost total lack of systems and controls, [she] did not have the benefit of an experienced legal secretary."

Fitzgerald testified that respondent's office was "poorly organized," her secretary lacked any legal experience, and respondent's legal experience was limited. Years earlier, before raising a family, respondent had practiced law for only a short period and then, recently, had begun working as a sole practitioner.

Fitzgerald noted that, without a support system or office procedures to keep track of things, "it's easy to go astray," as respondent did. Some of her files were incomplete. There were

periods of inactivity that Fitzgerald stated indicated a lack of a diary or calendar system to keep track of things.

As to the files that Fitzgerald reviewed, he testified that retainer agreements were missing and that respondent admitted that sometimes she obtained them and "sometimes didn't." Although respondent was aware of time records, retainer agreements, and client intake sheets, some cases had the documents and some did not. Most of respondent's cases did not contain notes about the subject matter of the cases.

With respect to the cases cited in the complaint, Fitzgerald testified that, when he initially reviewed the Myra Rivera file, it did not contain a retainer agreement. However, when respondent turned over the file to the presenter, shortly before the DEC hearing, it had a retainer agreement in it. The authenticity of the agreement was not challenged.

We now turn to the specific client matters that were the subject of the formal ethics complaint against respondent.

Rivera and her husband jointly owned real estate in Pleasantville, New Jersey. After Rivera's husband died in Puerto Rico, she sought to be qualified as the administratrix of his estate. Mistakes in the death certificate prevented her from being qualified to administer the estate.

By letter dated June 8, 2005, the Atlantic County Surrogate's Office informed respondent that they had received her June 6, 2005 letter, presumably seeking to have Rivera appointed. The letter stated further that the Surrogate's Office did not appoint administrators without the filing of the appropriate application. The letter added that the decedent's death certificate, which was only partially in English, had to be professionally translated. In addition to other problems, the Surrogate pointed out that respondent had to file an affidavit issued by the Commonwealth of Puerto Rico, stating that no administration proceedings or appointment of a personal representative had taken place there.

Six months later, by letter dated December 23, 2005, respondent confirmed with the Surrogate their conversation held earlier that day about the information needed to proceed in the matter. Respondent's file, however, lacked documentation to demonstrate that she had taken action in the matter, in the interim. Although Fitzgerald recalled that the file showed some activity, the mistakes in the death certificate were not corrected.¹

¹ Respondent's file contained an accounting of time spent on Rivera's case, totaling thirteen hours. The DEC presenter opined that the amount of time that respondent had spent preparing a
(Footnote cont'd on next page)

Eventually, Rivera sued respondent for a refund of the retainer, which respondent returned.

In the Leonel Montoya matter (an appeal of an immigration matter), Fitzgerald stated that, although respondent had adjourned the hearing, the client had "mistakenly" appeared and had resolved the matter himself. The file that the investigators reviewed was missing a brief. However, respondent's computer records showed that she had prepared a brief and cover letter to file it. Therefore, Fitzgerald stated, it appeared that respondent had "played a role in the resolution" of Montoya's matter.

In Anna Cruz's case (work authorization papers), Cruz became dissatisfied with respondent's inaction and terminated her services. Rather than request a refund, Cruz filed a pro se complaint, seeking damages from respondent for having lost her job. Cruz' file showed that there were delays in the handling of the matter. It was also incomplete and disorganized. Other than correspondence from Cruz to respondent about her refund and Cruz's acknowledgment that she received a partial refund from

(Footnote cont'd)

quitclaim deed and her three-hour consultation with the Surrogate's Office demonstrated that respondent had undertaken a case for which she lacked experience, which caused the matter to drag on far too long, without any resolution.

respondent, there was nothing in the file to establish that respondent had taken any action on Cruz' behalf.

In the Maria Cid case, the client was dissatisfied that it had taken respondent so long to obtain the replacement of her stolen identification. According to Fitzgerald, respondent had contacted the police department about the theft and had gone to the immigration office in Cherry Hill. In Fitzgerald's view, that trip was unnecessary.

Although Cid retained respondent in March 2006, respondent did not file any documents with the government until August 2006. By letter dated November 21, 2006, Cid complained to respondent that respondent had not replied to her numerous telephone calls and other attempts to communicate with her about her stolen identification and immigration matter.²

Although Cid requested a refund of her fee, there was no documentation in the file to show whether respondent had actually refunded the retainer. Respondent, in turn, stated that she had refunded the \$750 retainer and offered to submit documentation memorializing the refund, but failed to do so.

² At the continuation of the DEC hearing, the presenter noted that not only did respondent delay taking any action in Cid's matter, but she also made misrepresentations to Cid about when she had filed the application in her immigration matter.

According to the complaint, in the Gloria Neris case, a municipal court matter, respondent was retained to represent Neris' daughter in "a minor criminal matter." Fitzgerald stated that Neris had become dissatisfied with the representation because the case had "dragged on" too long. She, therefore, retained another attorney. There had been some activity in the case, but not enough to satisfy the client. Neris demanded a full refund of the retainer, but agreed to a partial refund.

Respondent failed to turn over the Neris file to the investigators, even though they extended the time to do so to the date of the hearing's continuation.

In the Maritz Mercado immigration matter, a problem arose relating to a criminal violation on Mercado's record, which had to be resolved for the paperwork for permanent resident status "to go forward" and for Mercado to obtain travel documents for an August 28, 2005 cruise. According to Fitzgerald, Mercado was dissatisfied with the progress of the case.

Mercado met with respondent approximately one month before the cruise. Although respondent prepared the required application form for the travel document, it was missing a required attachment relating to Mercado's arrest/conviction. Respondent's file contained a notation relating to the arrest, which had occurred approximately fifteen years earlier.

By notice dated August 1, 2005, the Department of Homeland Security, U.S. Citizenship and Immigration Services (DHS) acknowledged receipt of Mercado's application of July 28, 2005 and stated that the normal processing time for such an application was sixty to ninety days. Respondent's file contained neither a letter to the client, informing her that she would not receive the travel documents in time nor a letter to DHS requesting that it expedite the paperwork.

By letter dated December 6, 2005, DHS requested the submission of certified records relating to Mercado's earlier conviction, within twelve weeks, or the application would be denied. In the interim, respondent had taken no action in the matter. Although respondent claimed that she had telephoned the police department seeking information about the arrest/conviction, she made no written request for the information until January 5, 2006, four months after the date of the cruise. Respondent justified the delay by claiming that the request for information was for the application for permanent residency, not for travel documents.

In a notice dated June 28, 2006, DHS requested, among other things, information relating to Mercado's conviction in Egg Harbor Township Municipal Court. DHS made another request for information on November 18, 2006.

In an undated form, DHS denied Mercado's application for travel documents for failure to submit the additional requested documentation.

Respondent's November 18, 2006 letter to DHS stated:

Please be advised that Petitioner had previously applied for a Travel Document (I-131). It is our understanding that additional evidence that was requested was not furnished. It did not come to my attention that the information was not furnished, and it is unclear why this material was not provided in a timely fashion. Nevertheless, it appears my client's application has been canceled. It would be unfair that as a result of this oversight my client would be unable to receive the travel document. We respectfully request that my client be permitted to receive an emergency travel document. We would be grateful for the attention given to this request inasmuch as it is not my client's fault that the travel documents were not submitted in a timely matter.

[Ex.P11 at 158.]

By the time that respondent had sent the letter, the cruise had "come and gone more than a year [earlier]." Not only did respondent never forward the information to DHS, but her files contained no indication that she had met with Mercado or informed her about the status of her case.

According to Fitzgerald, in the cases that he had reviewed, the clients' requests for a refund of the retainer was justified. He added, however, that the files showed some

activity on behalf of the clients; it was not as if respondent had taken fees and simply abandoned the client, but her actions had not been sufficient or diligent. Fitzgerald's review of the files revealed a pattern of "slow progress on cases, and sometimes lack of follow-up or slow follow-up. And sometimes it appeared that it just was gaps of activity, inexplicable periods of time." He found that to be the case in the above files, as well as in respondent's other files, although to a lesser degree.

As to the refund of the clients' retainers, Fitzgerald stated that, in some instances, respondent had disagreed with amounts sought. In those cases, she attempted to negotiate partial refunds, presumably because she believed that she had earned a portion of the fees.

In mitigation, respondent testified about the tragedies in her life. Approximately six months after opening her law practice, her father had shot her mother and had tried to commit suicide. Respondent provided the same July 23, 2007 letter that she had submitted in her first ethics matter (DRB 09-396). According to that letter, her mother had been suffering from Alzheimer's disease for approximately ten years, when her husband of fifty-five years had murdered her. He had taken care of his wife during her illness, but he, too, suffered from poor health, namely, emphysema and heart-related problems that

required quadruple by-pass surgery. Shortly before his wife's death, he had suffered from a painful bout of shingles, which had left him weakened and frail.

According to respondent's letter, her parents lived in Florida and, during hurricane season, had to be evacuated from their homes several times. The changes took a toll on her mother, leaving her more confused, depressed, and belligerent. As a result, respondent's father thought that the only solution to their difficulties was to end both of their lives. He survived the overdose of drugs he had taken. Respondent flew to Florida to be at her father's side.

Respondent stated that, on October 3, 2005, her father was arrested and charged with first degree murder. She added that, despite her father's atrocious act, he had loved and cared for his wife his whole life.

Respondent testified that she had travelled to Florida at least every weekend, over a six-month period, to care for her father and assist in his legal defense. He passed away six months later, about one month prior to the start of his trial (April 24, 2006). During that period, respondent kept her office open, continued to teach, and sought therapy. After her father died, she was diagnosed with post-traumatic stress disorder (PTSD). As a result, her psychologist recommended a medical

leave from her teaching position, which she took from the fall of 2006 through the spring of 2007.

Respondent admitted that the situation with her parents distracted her from her law practice, which suffered, particularly because of a lack of a support system. Although she admitted having been slow in getting her client's work done and having failed to document her work, she denied that she had merely taken their money and done nothing on their behalf. She pointed out that she had returned their fees, when asked to do so.

Respondent also offered exhibits during the first day of the hearing, which the DEC hearing panel accepted into evidence. Exhibit R-5, respondent's September 10, 2008 letter to the OAE Director, stated that, "after much deliberation," she realized that she could not continue in private practice. She also announced her intention to schedule an appointment with a psychologist to draft a report for the Director's review, to take "the ICLE course in November," and to contact the Lawyers' Assistance Program for "assistance/mentoring."

The presenter recommended a period of suspension, with conditions on respondent's practice. In his closing statement, he highlighted the significant facts that supported his recommendation. He acknowledged the "horrific experience" that

respondent endured, but underscored the fact that she was out of state for prolonged periods of time, due to her parents' situation and that, admittedly, she was dramatically affected by those tragic events, suffering from PTSD and depression and becoming unable to teach. The presenter noted that she was placed on medical leave from her position at Stockton State College but, nevertheless, continued to practice law.

According to the presenter, a review of respondent's files showed that she lacked experience, training, controls, and the appropriate resources to properly practice law. In addition, she knew, or should have known, that she was not functioning properly and was not properly attending to her clients and, therefore, had an obligation to notify the clients that she was unable to handle their cases, instead of allowing them to languish.

Finally, the presenter noted that respondent could have avoided her ethics troubles if she had simply complied with the conditions of the agreement in lieu of discipline. He added, "[I]f she wasn't even able to handle the agreement in lieu of discipline . . . you can only imagine what she was doing three or four years earlier when she was supposed to be taking care of clients' needs."

The presenter stressed that respondent's clients were primarily individuals whose interests needed protection:

immigrants, people with a language barrier, unsophisticated, vulnerable individuals who were unfamiliar with how to obtain qualified attorneys or how to change attorneys.

The DEC found that the evidence clearly and convincingly established that respondent failed to provide writings setting forth the basis or rate of the fee to six clients (Montoya, Cruz, Rivera, Cid, Neris, and Mercado); lacked diligence in the Cruz, Rivera, and Cid matters (RPC 1.3); and engaged in a pattern of neglect (RPC 1.1(b)) in the same three matters.

After reviewing the evidence, the DEC concluded that respondent's mitigation warranted a reprimand. The DEC recommended that respondent submit proof of fitness, prior to resuming the practice of law, and that she practice either under the supervision of a proctor for two years or in an established law firm.

On July 14, 2011, Office of Board Counsel received a submission from respondent, which was due one month before, on June 15, 2011. Respondent argued, among other things, that the reprimand recommended by the DEC was too severe and that it would not protect the public any more than the censure that she had previously received in 2010. In addition, she expressed her concern that a reprimand would adversely affect her ability to earn a living, even though she claimed that she did not intend to practice law again.

Respondent explained that she did not complete the diversionary program because she had sustained serious injuries to her leg, had been hospitalized for nearly one month, had been bedridden for nearly four months, and had faced the possibility of having her leg amputated below the knee.

We note, however, that respondent entered the agreement in lieu of discipline in April 2008. She suffered a fractured ankle and complications therefrom on September 16, 2008. The majority of the agreement's conditions were to have been completed before respondent sustained the injury. Although respondent complied with some of the agreement's conditions, the record is devoid of evidence that she sought an extension from the OAE to comply with the remaining conditions.

Following a de novo review of the record, we are satisfied that the DEC's finding that respondent was guilty of unethical conduct was fully supported by clear and convincing evidence.

We address, first, respondent's belated submission to us. We find it not only to be unpersuasive, but further evidence that respondent is either unable or unwilling to comply with deadlines. We note also that she was not entirely forthcoming with her reasons for failing to comply with the agreement.

As to the DEC's findings, we concur with most of them. Respondent admitted violating RPC 1.1(b), RPC 1.3, and RPC 1.5(b) and the evidence establishes that she violated these rules.

Initially, the investigators did not find writings setting forth the basis or rate of the fee in the six files cited in the complaint: Leonel Montoya, Anna Cruz, Myra Rivera, Maria Cid, Gloria Neris, and Maritz Mercado. However, Fitzgerald testified that, shortly before the DEC hearing, when respondent turned over the Rivera file, it contained a retainer agreement. The presenter did not contest the authenticity of the agreement. In the absence of evidence that the agreement was created after the fact, we find that it was a valid agreement. Thus, we find that respondent violated RPC 1.5(b) in only five of the six matters listed in the complaint.

The complaint charged, and respondent admitted, that she lacked diligence in the Cruz, Rivera, and Cid matters. In fact, respondent not only lacked diligence in those three matters, but her conduct rose to the level of gross neglect.³ The Cruz file lacked any documentation that respondent had tried to obtain Cruz' work authorization papers. In Rivera (estate matter), the

³ The complaint did not charge respondent with gross neglect, only lack of diligence and a pattern of neglect. As seen below, we find that her gross neglect of the matters constitutes an aggravating factor.

matter dragged on for six months, before respondent contacted the surrogate about the deficiencies with Rivera's application for qualification as administratrix. Moreover, there was no proof in the file that respondent had resolved the matter. In the Cid matter, respondent failed to secure replacement identification for Cid and did not tend to Cid's immigration matter, prompting Cid to request a refund of her retainer.

Respondent also grossly neglected the Neris matter (municipal court criminal matter), where the client was forced to retain another attorney, and the Mercado matter, where she failed to obtain travel documents in time for her client's cruise and where her client's application for permanent residency was denied. Although respondent refused to answer questions about any other client matters, the matters for which there was testimony at the DEC hearing clearly and convincingly established that she engaged in a pattern of neglect. See In the Matter of Donald M. Rohan, DRB 05-062 (June 8, 2005) (slip op. at 12-16) (at least three cases of neglect are necessary to find a pattern of neglect).

Finally, respondent's frequent absences from the state, her PTSD, and her inexperience prevented her from giving her clients the attention that their cases required. Under RPC 1.16(a)(2),

these circumstances required respondent to withdraw from the representation.⁴

In sum, this respondent failed to provide at least five clients with retainer agreements, lacked diligence in at least three matters, and engaged in a pattern of neglect.

The only issue left for determination is the proper quantum of discipline. If an attorney displays a pattern of neglect, a reprimand usually ensues. See, e.g., In re Gellene, 203 N.J. 443 (2010) (attorney guilty of gross neglect, pattern of neglect, and lack of diligence; the attorney failed to timely file three appellate briefs, failed to communicate with his client in two of the matters, and failed to appear on the return date of an order to show cause without notifying the court that he would not appear; aggravating factors included his ethics history: two private reprimands and an admonition; mitigating factors considered were his financial problems, depression and serious personal problems); In re Weiss, 173 N.J. 323 (2002) (lack of diligence, gross neglect, and pattern of neglect); In re Balint, 170 N.J. 198 (2001) (in three matters, attorney engaged in lack of diligence, gross neglect, pattern of neglect, failure to

⁴ Although the complaint did not charge respondent with a violation of RPC 1.16(a)(2), we find that respondent's failure to withdraw from the representation constitutes an aggravating factor.

communicate with clients, and failure to expedite litigation); and In re Bennett, 164 N.J. 340 (2000) (lack of diligence, failure to communicate in a number of cases handled on behalf of an insurance company, gross neglect, and pattern of neglect).

As to the failure to provide a client with a writing setting forth the basis or rate of the fee, generally, this violation results in the imposition of an admonition. See, e.g., In the Matter of David W. Boyer, DRB 07-032 (March 28, 2007) (in an estate matter, the attorney failed to provide the client with a writing setting forth the basis or rate of his fee) and In the Matter of Carl C. Belgrave, DRB 05-258 (November 9, 2005) (attorney who was retained to represent the buyer in a real estate transaction failed to state in writing the basis of his fee, resulting in confusion about whether a \$400 fee was for the real estate closing or for a prior matrimonial matter for which the attorney had provided services without payment; recordkeeping violations also found).

In determining what discipline is warranted here, we have considered the following aggravating factors:

- 1) Respondent was censured before.
- 2) Although the complaint did not charge respondent with failure to communicate with clients, the record shows that she failed to inform Montoya that his case had been adjourned and

did not respond to Cid's repeated efforts to obtain information about her matter.

3) Respondent's conduct rose to a level of gross neglect.

4) Respondent failed to comply with the recordkeeping rules. She did not maintain records required under R. 1:21-6 (client ledger cards, proper receipts and disbursement journals).

5) As in the default matter that resulted in her censure, respondent failed to cooperate with disciplinary authorities. Here, she failed to turn over the Neris file to the DEC investigators, failed to participate at the continuation of the DEC hearing, and failed to notify the panel chair that she would not attend the hearing. The attorney's presence at the hearing is mandatory, under R. 1:20-6(c)(2)(D).

6) Finally, respondent failed to withdraw from the representation of her clients, when her mental condition materially impaired her ability to properly represent them. The death of respondent's parents undoubtedly took its toll on her. She took a doctor-ordered leave of absence from her teaching post and should have done the same from her law practice. Her failure to do so harmed the interests of clients, some of whom were unsophisticated, unfamiliar with the language, and certainly unacquainted with the New Jersey legal process.

Clearly, respondent lacked the knowledge or experience to operate a solo practice, as underscored by her lack of required records, ledger cards, docketing system, and the like. She was in over her head. Moreover, once her family tragedy unfolded, she was frequently away from the office, with no one to step in to oversee her practice.

For the totality of the circumstances, including the paramount need to protect the public, we determine that a three-month suspension is warranted, a period during which respondent should take steps to educate herself about proper office procedures to prevent future harm to other clients.

We further determine to require respondent, prior to reinstatement, to provide the OAE with proof of fitness to practice law, as attested to by an OAE-approved mental health professional, and to provide to the OAE proof of completion of a course in law office management. We also determine that, upon reinstatement, respondent should practice under the supervision of an OAE-approved proctor for a two-year period.

We further determine to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs and actual expenses incurred in the prosecution of this matter, as provided in R. 1:20-17.

Disciplinary Review Board
Louis Pashman, Chair

By:


Julianne K. DeCore
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

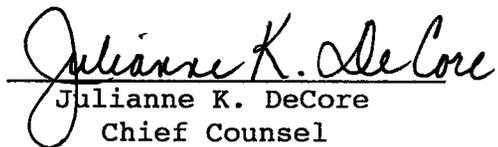
In the Matter of Arleen Caballero Gonzalez
Docket No. DRB 11-136

Argued: July 21, 2011

Decided: October 26, 2011

Disposition: Three-month suspension

<i>Members</i>	Disbar	Three-month Suspension	Reprimand	Dismiss	Disqualified	Did not participate
Pashman		X				
Frost		X				
Baugh		X				
Clark		X				
Doremus		X				
Stanton		X				
Wissinger		X				
Yamner		X				
Zmirich		X				
Total:		9				


Julianne K. DeCore
Chief Counsel