Supreme Court of New Jersey
Disciplinary Review Board
Docket Nos. DRB 20-260 and 20-273
District Docket Nos. IIIB-2018-0041E;
IIIA-2018-0015E; IIIA-2018-0016E;
IIIA-2018-0017E; and IIIA-2018-0023E

In the Matters of Mary Elizabeth Lenti An Attorney at Law	:

Decision

Argued: February 18, 2021

Decided: June 30, 2021

Rose Marie Mesa appeared on behalf of the District IIIB Ethics Committee (DRB 20-260).

Margarie M. Herlihy appeared on behalf of the District IIIA Ethics Committee (DRB 20-273).

Respondent appeared pro se.

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

These presentment matters were consolidated before us for the imposition of any discipline. The first matter, DRB 20-260, was before us on a recommendation for a "public reprimand" filed by the District IIIB Ethics Committee (DEC IIIB). The formal ethics complaint charged respondent with having violated RPC 1.3 (lack of diligence), RPC 8.1(a) (false statement of material fact in a disciplinary matter), and RPC 8.4(c) (three instances – conduct involving dishonesty, fraud, deceit or misrepresentation).

The second matter, DRB 20-273, was before us on a recommendation for a reprimand filed by the District IIIA Ethics Committee (DEC IIIA). The formal ethics complaint in DRB 20-273 charged respondent with having violated RPC 1.3 (two instances), RPC 1.4(b) (three instances – failure to communicate with the client), and RPC 5.3(b) (failure to supervise a nonlawyer assistant).

For the reasons set forth below, we determine to impose a censure.

Respondent earned admission to the New Jersey bar in 2012 and to the Pennsylvania bar in 2011. She has no disciplinary history. During the relevant timeframe, she maintained an office for the practice of law in Mount Holly, New Jersey.

The John Sica Matter
(DRB 20-260 and District Docket No. IIIB-2018-0041E)

On February 23, 2017, John Sica, the grievant, retained respondent to represent him in a divorce matter.[1] Respondent charged Sica a flat rate of $2,500 because she mistakenly believed that the matter could quickly be resolved. A short time after the representation began, respondent defended Sica in a domestic violence matter, which she successfully resolved, without charging a fee. Specifically, Sica's spouse had filed a temporary restraining order against him, which was dismissed after a trial. In March and April 2017, respondent attempted to mediate an unspecified agreement (presumably, a property settlement agreement) between the parties, as she wrongly believed that such an agreement must precede the filing of a divorce complaint.

In a May 2, 2017 e-mail exchange between respondent and Sica, he informed respondent that he had contacted the Camden County Superior Court (CCSC) and inquired about the status of his divorce matter, and a CCSC representative told him that she could not find a docket number or any court filings relating to his case. Sica asked respondent if the court could have lost the filing, or if it could have been lost in the mail, and respondent replied,

[1] The DEC IIIB investigator informed Sica that he could both attend and testify at the ethics hearing, but he chose to not appear.

"[l]et's touch base earlt [sic] afternoon tomorrow. I'm not sure what is going on, but will have my office look into asap."

Respondent stipulated that she had misrepresented to Sica the date on which she had filed the divorce complaint. Specifically, on May 2, 2017, she led Sica to believe that she already had filed the complaint. She admitted that she should have disclosed to Sica that she had not yet filed the complaint.

Two weeks later, on May 16, 2017, respondent filed Sica's divorce complaint, and included an affidavit of insurance; certification and verification of non-collusion; certifications by attorney and client; and affidavit of non-military service, all of which Sica had signed on May 9, 2017.[2]

A one-day trial took place on October 24, 2017. The Honorable David M. Ragonese, J.S.C., entered a final judgment of divorce (FJOD), which (1) ordered the parties to list the marital home for sale within twenty days, and (2) directed respondent to file an amended final judgment of divorce (AJOD) within ten days, or be required to appear in court on November 7, 2017.

Respondent testified that she neither timely filed the AJOD nor appeared in court on November 7, 2017; as a defense, she claimed that she never received notice of a hearing on that date from the court. Sometime after November 7,

[2] The numbered paragraphs in the answer do not necessarily coincide with the numbered paragraphs in the complaint. For example, in paragraph six of her answer, respondent admitted paragraphs five through nineteen in the complaint.

2017, Judge Ragonese's chambers contacted respondent's office and inquired as to the status of the AJOD. Respondent admitted that she had not been diligent in completing the AJOD, which was not filed until December 28, 2017.

On December 6, 2017, more than twenty days after the date of the issuance of the FJOD, Sica requested, via text message, that respondent file a motion to enforce litigant's rights to list the marital home for sale (the Motion). That same day, respondent agreed to file the Motion. Respondent reminded Sica, however, that the filing of the Motion was beyond the scope of the retainer agreement, and that she had represented Sica in the domestic violence matter at no charge. She, thus, requested that Sica provide an additional fee toward the filing of the Motion.

By letter dated December 7, 2017, respondent notified the court that Sica's former spouse had refused to sign the listing agreement, in violation of the FJOD; stated that the marital home was in danger of going into foreclosure; and requested a status conference to attempt to avoid formal motion practice. Respondent testified that she did not believe the Motion to enforce litigant's rights to remove Sica's former spouse from the marital home would be successful, because the trial had recently concluded; the parties did not have the funds to move; and the FJOD required only that the parties list the home,

not that Sica's former spouse be evicted. Thus, she sent the letter to the court, rather than file the Motion.

Between December 11, 2017 and January 2, 2018, respondent and Sica exchanged a series of e-mails. On December 11 and December 12, 2017, Sica inquired as to whether Judge Ragonese had replied to respondent's request for a status conference. On December 12, 2017, respondent replied that the court had (1) denied her request because Sica's former spouse was not represented by counsel, and (2) directed her to file the Motion instead.

That same day, Sica informed respondent, via e-mail, that he had asked a CCSC representative about the status of the conference and learned that it did not matter that his former spouse was unrepresented. He also emphasized that his matter was urgent and asked when respondent would file the Motion. Thirty minutes later, respondent replied that Sica should not call the court, claiming that court staff are not supposed to talk to represented litigants, and further claiming that Judge Ragonese had determined that a comprehensive hearing should be held, not a status conference. Later that afternoon, Sica inquired twice as to what a comprehensive hearing was, and when it would be scheduled. Respondent replied that it was a Motion hearing, and that it would most likely occur on January 19, 2018.[3]

[3] Respondent testified that she selected the January 19, 2018 date because, in the Family Part,

On December 13, 2017, Sica sent respondent an e-mail and remarked that January 19, 2018 would be eighty-seven days since the divorce was finalized; expressed concern that the matter was not resolved already; asked her "to do whatever needs to be done to obtain an earlier date;" and inquired whether a hearing carries the same weight as a motion. Sica noted that time was of the essence, due to the impending foreclosure issues: the bank could take the house; any equity remaining in the house could be lost; or the bank could prohibit the parties from listing the house. That same day, respondent replied that a motion and a hearing are the same, and that the court had scheduled the January date.

On December 19 and December 21, 2017, Sica sent e-mails to respondent, inquiring as to the time of the hearing. On Friday, December 22, 2017, Sica informed respondent that he had called the court because she did not reply to his messages; was told that nothing had been scheduled; and inquired again as to the status of the matter. Respondent replied that she was unsure of the identity of the person with whom Sica had spoken; that she would confirm the time of the hearing on Tuesday; and that she would send an e-mail to respondent's former spouse, alerting her that the holidays were approaching, and reminding her that she needed to list the marital home.

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the Motion hearing was required to be held twenty-four days after the filing of the Motion, and on a Friday in CCSC. Further, due to the impending holidays, she did not believe she could get a date until mid to late January.

On Tuesday, December 26, 2017, Sica sent an e-mail to respondent, stating, "I need you to be completely honest with me;" inquired as to exactly what work had been completed; expressed concern about the foreclosure issues again; remarked that he believed nothing had been done since October 24, 2017; and told her that he had spoken to Judge Ragonese's clerk, who informed him that no hearing was scheduled for January 19, 2018, and, further, that the AJOD was never filed. That same day, respondent replied:

> I am not in the business of lying to my own clients about work that was done. Second, I can restate it again, but our divorce Retainer Agreement was for the completion of your divorce. That ended when the [AJOD] was submitted, which it was. Everything else has been a courtesy to you. Post divorce was not covered and it clearly states in the Agreement that [w]ork outside of the scope is not covered . . . I filed the [AJOD] . . . I sent a Status Conference Request to Judge [Ragonese] . . . . The Judge disagreed and said that we would have to send a [M]otion in.
>
> [C¶16.][4]

Respondent maintained that she had agreed to file the Motion at no charge to Sica; her office had compiled the Motion and she had not yet received a reply; she contacted the court that same day, her day off, to inquire about the status of the Motion, because she had requested the January 19, 2018 hearing date; the Motion was being returned because it was deficient and was therefore

[4] "C" refers to the undated formal ethics complaint in this matter.

not marked filed; she had to revise the Motion and would refile it, as her office does not normally file this type of Motion; and she previously had directed Sica not to call Judge Ragonese's chambers.

Respondent admitted that she had explained to Sica that she was not familiar with post-judgment motions and, thus, was unsure how to proceed. She claimed that Sica was a challenging client whose demands overwhelmed her. She stated that she should have ended the representation after the successful divorce trial, but instead acted dishonestly and attempted to appease him.

During the ethics hearing, respondent admitted that her statement to Sica regarding the date she filed the AJOD and her claims that the Motion had been filed, but was deficient, were false. On approximately December 23, 2017, her office sent the AJOD, via facsimile, to the court, but it was filed not filed until December 28, 2017.

On December 29, 2017, Sica sent an e-mail to respondent and requested a status update regarding the AJOD and the date and time for the Motion hearing. On January 2, 2018, Sica sent another e-mail to respondent, discharged her as his attorney, and requested that she sign a substitution of attorney to enable him to proceed pro se. On January 9, 2018, Sica sent a letter to the CCSC with a copy of the signed substitution of attorney, stating that due to his attorney's "failure," he did not have a copy of the finalized AJOD or a filed

Motion. He further stated that, although respondent represented that she was going to file the Motion, she never did, and made excuses that the "Judge kept changing his mind in the type of motion he wanted."

On January 12, 2018, Sica sent a certified letter to respondent, stating that he had received the AJOD, and that it contained two significant errors: first, it stated that there were forty-five days to list the house when it should have been twenty days; and second, that the vehicle at issue was a KIA when it was a Hyundai. He requested a correction within four days.

Respondent admitted that, in May 2019, when she met with the DEC IIIB investigator, she informed the investigator that she was granted a two-week extension from the court to submit the AJOD. Respondent told the investigator that she had explained to Sica that the Motion was premature and beyond the scope of the representation, yet she had agreed to file it. Respondent misrepresented to the investigator that, on November 17, 2017, her staff sent copies of the AJOD to Sica, via e-mail, and to the court, via facsimile, and claimed that she could not produce the facsimile confirmation. Respondent perpetuated the misrepresentation when she told the investigator that she would not have written the December 7, 2017 letter if she had not submitted the

AJOD.[5] Respondent also told the investigator that she did not know why the court delayed in filing the AJOD.

Moreover, respondent testified that she misrepresented to the DEC IIIB investigator that she had filed the Motion, but that it was deficient, and that she had called the court to inquire as to how to properly file the Motion. The investigator asked respondent for a copy of the Motion, but respondent was unable to produce it. Respondent testified that she even offered to show the investigator a recording of a Motion that she had dictated on her phone, which she claimed was the Motion. When the investigator recognized the dictated document as the December 7, 2017 letter, respondent acknowledged that it was not the Motion. Respondent first represented to the investigator that her office compiled the Motion and submitted it to the court; when she learned it had not been filed because it was deficient, she contacted the court to inquire as to how to properly file it. She then admitted to the investigator that she never drafted the Motion or filed it, and had lied to Sica and, briefly, to the investigator. When the investigator asked her why she had lied, respondent answered, "I don't know."

[5] The DEC did not charge respondent with these RPC violations.

The resulting complaint alleged that respondent violated RPC 1.3 by failing to file the Motion. Respondent admitted that she failed to file the Motion after agreeing to do so, in violation of RPC 1.3.

Next, the complaint alleged, and respondent admitted, that she violated RPC 8.4(c) in three instances: by misrepresenting to Sica the date the divorce complaint was filed; by misrepresenting to Sica the date the AJOD was filed; and by misrepresenting to Sica that she had filed the Motion.

The complaint further alleged, and respondent admitted, that she violated RPC 8.1(a) by misrepresenting to the DEC IIIB investigator that she had filed the Motion.

Despite her admitted misconduct, respondent maintained that she had achieved the "best outcome" for Sica, because the Matrimonial Early Settlement Panel recommendation was "far, far worse" than the outcome of the trial.[6] Respondent stipulated that Sica ultimately filed the Motion pro se and it was denied, and that the court granted Sica's former spouse additional time to comply with the AJOD.

[6] The Matrimonial Early Settlement Panel, properly called the Early Settlement Program, is a mediation program used to assist divorcing couples reach an agreement instead of going to trial.

Respondent and the presenter agreed that, despite her multiple misrepresentations, her work in the Sica matter was acceptable, and that a reprimand was the appropriate quantum of discipline for her misconduct.

In the stipulation, the parties offered the following mitigation: respondent readily admitted her misconduct; expressed contrition and remorse; there was no harm to the client; and respondent did not benefit from her misconduct. The DEC investigator confirmed that respondent's misconduct did not adversely impact the client's outcome. Respondent expressed remorse for causing Sica undue stress, and accepted responsibility for her misconduct.

Regarding her misrepresentations regarding the timeliness of the filing of the divorce complaint and the AJOD, respondent explained that she did not intend to deny Sica representation, and that she misled him to pacify him, because of the pressure she felt as a result of his frequent telephone calls and unscheduled office visits. Respondent claimed that Sica would call a "hundred times a week," and that "he'd show up," and that it became overwhelming; instead of telling him that the scope of work in the retainer agreement had been completed, she put his case "to the bottom of the pile," but ultimately submitted the requested filings to the court.

Further, regarding her failure to file the Motion, respondent explained that she made the misrepresentation in response to Sica's insistence that she

file the Motion against her advice that it was premature and realized that she should have clarified that she did not intend to file it, instead of pacifying Sica and leading him to believe it was filed.

Regarding the RPC 8.1(a) charge, both respondent and the presenter agreed that respondent suffered a "momentary lapse in judgment" during her interview with the DEC IIIB investigator, when she was dishonest about her preparation of the Motion.[7] Respondent emphasized that she quickly corrected the misrepresentation within the same conversation; was immediately remorseful and apologetic; cooperated with the investigation; and that the misrepresentation was a brief aberration. During the hearing, the investigator speculated that respondent's lapse was possibly due to stress and pressure. The investigator confirmed that respondent was immediately remorseful and apologetic and had cooperated with the investigation.

Moreover, respondent submitted an October 15, 2019 character letter from Damian del Pino, Esq., her friend and colleague of twelve years. del Pino attested to respondent's dedication to her clients, regardless of their ability to pay, despite several professional and personal issues she had simultaneously encountered, and concluded that he admired and respected her professionalism.

[7] The presenter at the hearing had also served as the DEC IIIB investigator.

In further mitigation, respondent asserted that she had taken corrective action since her representation of Sica concluded, as described more specifically below. She also stated that she had revised her retainer agreements to create a clearer structure and had instituted a central calendar with notifications and communication with her staff to ensure she will not fall behind. She admitted at the hearing that criminal law, not family law, was her strength, but that, in 2017, she began learning family law, advertised on "Google," received many cases, and her clients suffered because of it. She no longer advertises that she practices family law.

She maintained that, "if I could go back, give money back to everybody from 2017, I would have, because I've changed my practice a lot since then, and to say this is a bit of an embarrassment is – is an understatement." She would rather not be a lawyer than have clients believe she took their money, lied, and "kicked the can down the curb." She regretted her conduct in the Sica matter, including her brief misrepresentation to the investigator. She apologized to everyone involved, including to Sica.

In connection with DRB 20-260, the hearing panel determined that there was clear and convincing evidence that respondent violated RPC 8.1(a) and RPC 8.4(c) (three instances). However, the panel determined to dismiss the RPC 1.3 charge.

Specifically, the panel found that respondent violated RPC 8.4(c) by intentionally misrepresenting to Sica, in her May 2, 2017 e-mail, and for a period of approximately two weeks thereafter, that she had filed the divorce complaint. Further, the panel found that respondent violated RPC 8.4(c) by intentionally misrepresenting to Sica that the AJOD had been filed, when it was not. The DEC noted that the court's order required the AJOD to be filed within ten days of the October 24, 2017 divorce trial, and at least one December 26, 2017 e-mail from respondent to Sica misrepresented that it had been filed.

Moreover, the DEC determined respondent violated RPC 8.4(c) by intentionally misrepresenting to Sica, for a period of approximately three weeks, and in a series of three e-mails, that she had been in communication with the court regarding the bogus Motion hearing or that the Motion had been filed, when in fact she had not been communicating with the court about the Motion that she never filed. The panel specifically noted that respondent intended to mislead Sica in these three instances.

Next, the panel determined that respondent violated RPC 8.1(a) by misrepresenting to the DEC investigator that her office had prepared and filed the Motion, but that it was returned because it was deficient. During the same meeting, however, respondent quickly corrected her misstatement, and admitted that she had prepared the Motion in draft form but had not filed the Motion.

The DEC found that respondent did not violate RPC 1.3 by failing to file the Motion after agreeing to do so, determining that a three-week delay (almost four weeks) was not sufficient to find a violation. On December 6, 2017, respondent agreed to file the Motion and Sica discharged respondent on January 2, 2018.

The panel determined that respondent's testimony was credible and consistent with both the stipulation and her answer to the complaint, in which she had admitted the factual allegations and her violation of the aforementioned RPCs. The panel noted that respondent testified that she was "over her head" and "overwhelmed" with her caseload during the time when she began advertising on "Google," which resulted in an influx of cases that she was not prepared to handle, because she was a criminal attorney and had "little experience" with matrimonial cases.

The DEC acknowledged respondent's description of Sica, who called, arrived at the office unannounced, and constantly sent e-mails to respondent on all types of issues. Although respondent admitted that she chose to avoid, rather than confront Sica, he obtained a good result due to her legal representation.

The DEC acknowledged that both respondent and the presenter submitted that respondent's misrepresentation to the DEC investigator was a "momentary

lapse in judgment;" that she quickly corrected her false assertation within the same conversation; and that she was immediately remorseful and apologetic.

The panel found no aggravation, and in mitigation, noted that respondent has no ethics history; readily admitted her misconduct; expressed contrition and remorse; quickly corrected her misrepresentations to the DEC investigator; fully cooperated with the investigation; took responsibility for her misconduct; expressed remorse and contrition; did not gain from the misconduct; and did not intend to harm the client. Moreover, the DEC found that there was no harm to the client and that respondent's misconduct was limited to one client matter.

The panel, thus, found respondent guilty of violating RPC 8.4(c) (three instances) and RPC 8.1(a). The panel found that respondent was not guilty of violating RPC 1.3. The panel, thus, recommended a "public reprimand."

The Dion C. Young Matter
(DRB 20-273 and District Docket No. IIIA-2018-0015E)

Sometime in March 2017, Dion C. Young, the grievant, retained respondent in connection with a probate matter and executed a written retainer agreement.[8] Respondent stipulated that she had failed to sufficiently

[8] The DEC informed Young, Soto-Ortiz, Quesada, and Krakoff that they had the right to appear at the hearing. However, none of the grievants appeared. Respondent stipulated to all the unethical misconduct, and the hearing addressed only her mitigation.

communicate with Young by failing to return his telephone calls and to reply to his e-mails in a manner required by the RPCs.

Respondent further admitted that she made little progress in the matter before Young terminated the representation, and that she should not have accepted a probate case. She thought it was going to be a simple matter, but once she realized it was complex, she should have notified Young and ended the representation. Respondent admitted that she underestimated the cost; was unfamiliar with probate matters; and made the "poor decision to push his case aside." She conceded that she should have called Young or written to him instead of communicating via infrequent text messages and, when problems occurred, she should have contacted Young herself, not rely on her staff to communicate with him. On or about May 23, 2018, Young filed an ethics grievance against respondent.

In connection with the Young matter, respondent, thus, stipulated to violating RPC 1.4(b).

The Elaine J. Soto-Ortiz Matter
(DRB 20-273 and District Docket No. IIIA-2018-0016E)

Sometime in March 2017, Elaine J. Soto-Ortiz, the grievant, retained respondent in connection with a divorce matter and executed a written retainer agreement. About one year later, Soto-Ortiz terminated the representation after

respondent failed to file necessary pleadings in a timely manner. Respondent stipulated that she failed to perform the tasks necessary for diligent representation, and that she failed to communicate with Soto-Ortiz regarding the status of her case.

Respondent claimed that the divorce was a simple matter, but that she became more concerned with obtaining a high volume of new cases and, consequently, was not adequately completing her caseload. Her confusion and unfamiliarity with the divorce matter led her to insufficiently communicate with Soto-Ortiz. On or about May 23, 2018, Soto-Ortiz filed a grievance against respondent.

In connection with the Soto-Ortiz matter, respondent stipulated to violating RPC 1.3 and RPC 1.4(b).

The Yvette Quesada Matter
(DRB 20-273 and Docket No. IIIA-2018-0017E)

Sometime in September 2017, Yvette Quesada, the grievant, retained respondent in connection with a custody and parenting time matter.[9] Respondent stipulated that, in early spring of 2018, Quesada terminated the representation and sought a refund of the retainer, because respondent failed to timely file her application for custody and parenting time; rather, respondent

[9] The record did not address whether there was a written retainer in the Quesada matter.

delayed for about five months after Quesada retained her. Respondent further stipulated that, when the application ultimately was submitted, it was poorly prepared and, thus, insufficient.

Respondent admitted that she wrongly prioritized other matters ahead of the Quesada matter, and should have submitted the client's application for parenting time sooner. Again, she was concerned with taking on new cases instead of properly completing active cases. On or about May 2, 2018, Quesada filed an ethics grievance against respondent.

In connection with the Quesada matter, respondent stipulated to violating RPC 1.3.

The Matthew Krakoff Matter
(DRB 20-273 and Docket No. IIIA-2018-0023E)

Sometime in June 2017, Matthew Krakoff, the grievant, retained respondent to represent him in connection with a divorce matter.[10] From about August 2017 to May 2018, Krakoff sent multiple text and e-mail messages to respondent, and visited respondent's office on numerous occasions to inquire regarding the status of his case. He had believed that his case was proceeding toward a default against his adversary but, in May 2018, learned from the family court clerk that his case had been dismissed. Respondent claimed that

[10] The record did not address whether there was a written retainer in the Krakoff matter.

she believed her paralegal had taken affirmative steps to file a motion for default and was unaware that the case had been dismissed. She admitted that she had no independent knowledge regarding the status of the case but, rather, had relied on her paralegal to file the pleadings to prevent a dismissal.

The Krakoff matter involved a complicated divorce and annulment, and respondent terminated the representation due to the present ethics matter. When respondent initially took the case, she did not realize that there were ancillary matters, including immigration and criminal issues. As the case progressed and became more complex, respondent wrongly instructed her staff to handle the matter, instead of taking an active role to rectify any issues, and, as a result, caused unnecessary delays. Due to respondent's lack of supervision of her staff, Krakoff's initial annulment complaint was dismissed. In addition, respondent provided Krakoff with incomplete or inaccurate information regarding the case.

Respondent stipulated that she did not communicate with Krakoff sufficiently and honestly regarding his matter, and that she failed to properly supervise her staff, resulting in a delay of the case and the ultimate dismissal of the pleadings.

In connection with the Krakoff matter, respondent stipulated to violating RPC 1.4(b) and RPC 5.3(b).

In mitigation, respondent repeated many of the factors set forth above in connection with DRB 20-260, and proffered additional information.

Specifically, Krakoff and Soto-Ortiz ultimately filed for fee arbitration and respondent filed no opposition.[11] Respondent and Young came to a private agreement in which she agreed to refund him half of his retainer, $750.[12] Respondent offered to refund Quesada half of the amount she had paid ($625), which Quesada seemed to accept, but respondent had not heard from her since February 2019, the date of the termination of the representation.

Respondent explained that, from about February to September 2017, her office became very busy, and she was the sole attorney handling the family law cases, which, as stated, was not her strength. Her areas of expertise are municipal court and criminal law matters. She is a municipal public defender and represents criminal defendants. Moreover, she admitted that she did not take the family law matters as seriously, because of the lack of urgency.

As previously stated, respondent spent extensive funds for marketing to increase her business, which was successful, but she was not prepared to handle

[11] According to the Office of Attorney Ethics (the OAE) database, Krakoff filed for fee arbitration, which the parties settled on January 3, 2020. $3,000, the entire fee paid, was to be refunded to him. Soto-Ortiz also filed for fee arbitration, which the parties settled on November 23, 2019. $2,500 was to be refunded to her.

[12] According to the OAE database, Young filed for fee arbitration, which the parties settled on March 14, 2019. $700, the entire fee paid, was to be refunded to him.

the influx of cases which occurred from about February to September 2017. She delegated a great deal of work to her paralegal and had given him "probably way too much to handle" without supervising him "to a reasonable or really ethical degree." As a result, a few cases, including the Krakoff matter, were neglected. She expressed embarrassment due to her misconduct in the instant matters. She acknowledged that her clients paid her to do a job and did not receive the representation that they deserved. Respondent conceded that she had no excuse for her misconduct, which resulted from poor judgment and poor supervision of her staff.

In the period since her misconduct, respondent has ceased marketing in family law, and accepts only simple family law cases that can be handled quickly. She has enacted remedial measures in her office: every client receives a retainer agreement "that day;" each client has a detailed file; she uses a cloud-based server that her entire staff can access; one person checks the mail; and she uses a calendar system. Also, she reviews every document that is sent from the office, and if there is a mistake with a date, she immediately contacts the parties. She also has significantly fewer clients now.

Further, she stated that, in April or May 2019, Susan Dargay, Esq., a family law attorney, assisted her extensively for several hours to review her outstanding family law cases, including pending filings. Dargay answered

respondent's questions at that time, and respondent continues to use her as a resource.

Moreover, respondent submitted a supplemental, June 29, 2019 letter from her character witness, del Pino, who has known her since law school, and noted that he is aware of the ethics grievances against her. He also assisted respondent in reviewing her civil cases; is confident that she has ceased any negative practices; and can resume being a "great attorney." Respondent volunteers extensively with "Wills for Heroes" a pro bono estate planning service for first responders, which del Pino administers. In del Pino's view, respondent is dedicated to her clients; cares more about helping them than monetary compensation; and assists with populations that normally would not have access to an attorney. She fully admitted her mistakes and accepts the consequences. del Pino holds respondent in "high regard," as a person and as an attorney, and would recommend her to friends, family members, and associates.

* * *

In connection with DRB 20-273, the hearing panel accepted the facts and RPC violations as stipulated and determined that the clear and convincing evidence established that respondent violated RPC 1.3 (two instances), RPC 1.4(b) (three instances), and RPC 5.3(b).

Specifically, the DEC determined that respondent violated RPC 1.3 in the Soto-Ortiz and Quesada matters by failing to pursue both clients' claims in a timely matter. Respondent submitted no legitimate excuse for the delays but, rather, admitted that the delays were unreasonable and inappropriate.

Further, the panel found that respondent violated RPC 1.4(b) in the Young, Soto-Ortiz, and Krakoff matters by failing to reply to the clients' reasonable inquiries regarding the status of their respective matters; failing to affirmatively provide status updates to them; and otherwise failing to sufficiently communicate with them regarding their matters. Respondent offered no defense to her failure to keep her clients informed.

Moreover, the panel found that respondent violated RPC 5.3(b) in the Krakoff matter by failing to properly supervise her staff. Specifically, respondent wholly delegated the Krakoff matter, including the preparation and filing of a request to enter default, to her paralegal. Respondent's paralegal never filed the request and respondent failed to confirm that the request had been filed. Consequently, respondent was unaware that the matter was dismissed. The client, Krakoff, notified respondent that the matter had been dismissed after he independently queried the court as to the status of his matter. Respondent provided no defense to her failure to properly supervise her staff.

The panel accepted all of respondent's proffered mitigation, except to note that it is unclear why respondent waited until early 2019 to address her known issues and to implement corrective behavior. Specifically, respondent waited until April 2019, almost one year after most of the grievances were filed, to request the assistance of Dargay. Moreover, she waited until February 2019 to offer a partial refund to Quesada and, as of the July 23, 2019 hearing date, had neither followed up with Quesada nor provided her with the refund. The DEC found respondent to be credible and legitimately remorseful.

The panel did not cite any aggravating factors but recognized the multitude of clients who were harmed, in sensitive matters, due to respondent's misconduct. The panel concluded that a reprimand would be the appropriate sanction.

* * *

Following a de novo review of the record in DRB 20-260, we are satisfied that the clear and convincing evidence supports the determination that respondent violated RPC 8.1(a) and RPC 8.4(c) (three instances) in connection with the Sica matter. Contrary to the DEC IIIB's finding, we are satisfied that the clear and convincing evidence further supports the charged violation of RPC 1.3 in the Sica matter.

Moreover, following a de novo review of the record in DRB 20-273, we are satisfied that the clear and convincing evidence supports the determination that respondent violated RPC 1.3 in the Soto-Ortiz and Quesada matters; RPC 1.4(b) in the Young, Soto-Ortiz, and Krakoff matters; and RPC 5.3(b) in the Krakoff matter.

RPC 1.3

Respondent violated RPC 1.3 in the Sica, Soto-Ortiz, and Quesada matters. Specifically, in the Sica matter, respondent failed to file the Motion for a period of approximately four weeks after she had agreed to do so, which was on December 6, 2017, to the date that Sica discharged her, on January 2, 2018. Sica repeatedly communicated to respondent that time was of the essence regarding filing the Motion, because there was an impending threat of foreclosure on his marital residence. On December 7, 2017, respondent sent a letter to the court to attempt to schedule a conference regarding the sale of the home, and Judge Ragonese directed her to file a Motion. Respondent, however, failed to file the Motion for a period of almost four weeks. In light of the circumstances, despite the relatively short duration of respondent's inaction, her delay constituted a lack of diligence, in violation of RPC 1.3.

In the Soto-Ortiz matter, respondent stipulated to failing to timely file the pleadings necessary for the representation, admitting that she delayed doing so for approximately one year, in violation of RPC 1.3.

In the Quesada matter, respondent stipulated to failing to timely file the application for custody and parenting time for a period of about five months after she was retained. Respondent further admitted that, when she filed the application, it was insufficient and poorly prepared. Her conduct violated RPC 1.3.

RPC 1.4(b)

Respondent stipulated to having violated RPC 1.4(b) in the Young, Soto-Ortiz, and Krakoff matters. Specifically, in the Young matter, respondent failed to reply to Young's telephone calls and e-mails and, thus, failed to communicate with Young in a manner required by the RPCs.

In the Soto-Ortiz matter, respondent failed to communicate with the client regarding the status of her case.

In the Krakoff matter, respondent failed to communicate honestly and sufficiently regarding the client's matter. From approximately August 2017 to May 2018, Krakoff sent multiple text and e-mail messages, and frequented respondent's office to ascertain the status of his case. He believed his case was

proceeding to a default against his adversary. In May 2018, Krakoff learned, from the family court clerk, that his case had been dismissed.

RPC 5.3(a)

Respondent violated RPC 5.3(b) in the Krakoff matter by failing to properly supervise her paralegal, which resulted in a delay in the case and the dismissal of Krakoff's pleadings. Specifically, respondent improperly relied on her paralegal to take affirmative steps to file a motion for default, without any supervision, and was unaware that Krakoff's case had been dismissed.

RPC 8.1(a)

Respondent violated RPC 8.1(a) in the Sica matter by misrepresenting to the DEC IIIB investigator that her office had prepared and submitted the Motion to the court; that she learned it was not filed because it was deficient; and that she called the court to inquire as to how to properly file the Motion. She then admitted, during the same conversation, that she never drafted or filed the Motion.

RPC 8.4(c)

Respondent thrice violated RPC 8.4(c) in the Sica matter. First, respondent misrepresented to Sica the date of the filing of the divorce complaint. Second, she misrepresented to Sica the date of the filing of the AJOD. Third, she misrepresented to Sica that she had filed the Motion when, in truth, she had not.

In sum, respondent violated RPC 1.3 in three matters (Sica, Soto-Ortiz, and Quesada); RPC 1.4(b) in three matters (Young, Soto-Ortiz, and Krakoff); RPC 5.3(b) in one matter (Krakoff); RPC 8.1(a) in one matter (Sica); and RPC 8.4(c) (three instances) in one matter (Sica). The sole issue left for us to determine is the appropriate quantum of discipline for respondent's misconduct.

Attorneys who mishandle multiple client matters generally receive suspensions ranging from three months to one year. See, e.g., In re Pinnock, 236 N.J. 96 (2018) (three-month suspension for attorney who was found guilty of misconduct in ten client matters: gross neglect, lack of diligence, and failure to communicate with the client in nine matters; and pattern of neglect and conduct involving dishonesty, fraud, deceit, or misrepresentation in four matters; in aggravation, she caused significant harm to her clients; in mitigation, the attorney suffered from serious physical and mental health issues; prior reprimand); In re Tarter, 216 N.J. 425 (2014) (three-month suspension for attorney who was found guilty of misconduct in eighteen matters: lack of

diligence and a pattern of neglect in fifteen of those matters; gross neglect in one matter; and failure to withdraw from the representation and to properly terminate the representation in all eighteen matters; in mitigation, the attorney had no prior discipline and was battling alcoholism at the time of the misconduct); In re Drinkwater, 244 N.J. 195 (2020) (six-month suspension for attorney who was found guilty of misconduct in multiple matters: gross neglect and lack of diligence in nine matters; failure to communicate with the client in three matters; failure to supervise non-attorney staff in two matters; unreasonable fee in one matter; and pattern of neglect; in aggravation, the misconduct extended to nine client matters over a prolonged period of four years; in mitigation, the attorney had no ethics history, suffered from serious mental health issues, although eleven of the matters at issue began before he sought medical help; expressed remorse; served as a volunteer trustee to wind down a practice for an attorney who died; applied for his own trustee when he realized he could no longer function as an attorney; and was no longer practicing law); In re Tunney, 185 N.J. 398 (2005) (six-month suspension for misconduct in three client matters; the violations included gross neglect, lack of diligence, failure to communicate with clients, and failure to withdraw from the representation when the attorney's physical or mental condition materially impaired his ability to represent clients; in mitigation, the attorney suffered from

serious depression; prior reprimand and six-month suspension); In re Perlman, 241 N.J. 95 (2020) (one-year retroactive suspension for attorney who was found guilty of misconduct in seven matters: lack of diligence in six matters; failure to communicate with the client and failure to explain the matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation in five matters; failure to withdraw from the representation when continued representation would violate the RPCs and failure to comply with applicable law requiring notice to or permission of the tribunal when terminating a representation in one matter; conduct involving dishonesty, fraud, deceit or misrepresentation in one matter; engaging in conduct prejudicial to the administration of justice in one matter; and failure to notify clients of his suspension in three matters; in mitigation, the attorney suffered from serious mental health issues, and had a prior one-year suspension for misconduct in ten matters that occurred during the same time period as the above-described misconduct; in aggravation, he caused significant harm to his clients); and In re Rosenthal, 208 N.J. 485 (2012) (in seven default matters, one-year suspension imposed on attorney for gross neglect in two matters; pattern of neglect; lack of diligence in four matters; failure to keep the client reasonably informed about the status of the matter and promptly comply with reasonable requests for information in seven matters; failure to explain a matter to the extent reasonably

necessary to permit the client to make informed decisions regarding the representation in one matter; charging an unreasonable fee in three matters; failure to communicate in writing the basis or rate of the fee in one matter; failure to expedite litigation in one matter; failure to cooperate with disciplinary authorities in seven matters; conduct involving dishonesty, fraud, deceit, or misrepresentation in two matters; and conduct prejudicial to the administration of justice in two matters; he also abandoned six of the seven clients; the attorney had an unblemished disciplinary history in his more than twenty years at the bar).

Generally, in matters involving misrepresentations to ethics authorities, the discipline ranges from a reprimand to a term of suspension, depending on the gravity of the offense, the presence of other unethical conduct, and aggravating or mitigating factors. See, e.g., In re DeSeno, 205 N.J. 91 (2011) (reprimand for attorney who misrepresented to the district ethics committee the filing date of a complaint on the client's behalf; the attorney also failed to adequately communicate with the client and failed to cooperate with the investigation of the grievance; prior reprimand); In re Otlowski, 220 N.J. 217 (2015) (censure for attorney who made misrepresentations to the OAE and the client's lender by claiming that funds belonging to the lender, which had been deposited into the attorney's trust account, were frozen by a court order; to the

contrary, they had been disbursed to various parties); In re Freeman, 235 N.J. 90 (2018) (three-month suspension for pool attorney with the Office of the Public Defender (OPD); the attorney failed to communicate with his client about an upcoming hearing on a petition for post-conviction relief; the attorney appeared at the hearing without the client, took actions that were contrary to the client's wishes, and made misrepresentations to the court and the OPD; those statements would later negatively impact the client's ability to pursue an appeal; during the ethics investigation, the attorney lied to the DEC investigator, and later to the hearing panel; violations of RPC 1.2(a), RPC 1.4(b), RPC 3.3(a), RPC 4.1(a), RPC 8.1(a), and RPC 8.4(c) found); In re Brown, 217 N.J. 614 (2014) (three-month suspension, in a default matter, for an attorney who made false statements to a disciplinary authority; failed to keep a client reasonably informed about the status of the matter; charged an unreasonable fee; failed to promptly turn over funds; failed to segregate disputed funds; failed to comply with the recordkeeping rule; and failed to cooperate with disciplinary authorities); In re Silberberg, 144 N.J. 215 (1996) (two-year suspension imposed on attorney who, in a real estate closing, allowed the buyer to sign the name of the co-borrower; the attorney then witnessed and notarized the "signature" of the co-borrower; the attorney stipulated that he knew at the time that the co-borrower was deceased; after the filing of the ethics grievance against him, the

attorney falsely stated that the co-borrower had attended the closing; on another occasion, the attorney sent a false seven-page certification to the district ethics committee in order to cover up his improprieties); and In re Penn, 172 N.J. 38 (2002) (three-year suspension for attorney who failed to file an answer in a foreclosure action, thereby causing the entry of default against the client; thereafter, to placate the client, the attorney lied that the case had been successfully concluded, fabricated a court order, and signed the name of a judge; the attorney then lied to his adversary and to ethics officials; the attorney also practiced law while ineligible).

Misrepresentations to clients require the imposition of a reprimand. In re Kasdan, 115 N.J. 472, 488 (1989). A reprimand still may be imposed even if the misrepresentation is accompanied by other, non-serious ethics infractions. See, e.g., In re Dwyer, 223 N.J. 240 (2015) (attorney made a misrepresentation by silence to his client, failing to inform her, despite ample opportunity to do so, that her complaint had been dismissed, a violation of RPC 8.4(c); the complaint was dismissed because the attorney had failed to serve interrogatory answers and ignored court orders compelling service of the answers, violations of RPC 1.1(a), RPC 1.3, and RPC 3.2; the attorney also violated RPC 1.4(b) by his complete failure to reply to his client's requests for information or to otherwise communicate with her; the attorney never informed his client that a motion to

compel discovery had been filed, that the court had entered an order granting the motion, or that the court had dismissed her complaint for failure to serve the interrogatory answers and to comply with the court's order, violations of RPC 1.4(c)); In re Ruffolo, 220 N.J. 353 (2015) (knowing that the complaint had been dismissed, the attorney assured the client that his matter was proceeding apace, and that he should expect a monetary award in the near future; both statements were false, in violation of RPC 8.4(c); the attorney also exhibited gross neglect and a lack of diligence by allowing his client's case to be dismissed, not working on it after filing the initial claim, and failing to take any steps to prevent its dismissal or ensure its reinstatement thereafter, violations of RPC 1.1(a) and RPC 1.3; the attorney also violated RPC 1.4(b) by failing to promptly reply to the client's requests for status updates); and In re Falkenstein, 220 N.J. 110 (2014) (attorney led the client to believe that he had filed an appeal and concocted false stories to support his lies, a violation of RPC 8.4(c); he did so to conceal his failure to comply with his client's request that he seek post-judgment relief, violations of RPC 1.1(a) and RPC 1.3; because he did not believe the appeal had merit, the attorney's failure to withdraw from the case was a violation of RPC 1.16(b)(4); the attorney also practiced law while ineligible, although not knowingly, a violation of RPC 5.5(a)).

Attorneys who fail to supervise their nonlawyer staff typically receive

discipline ranging from an admonition to a reprimand, depending on the presence of other ethics infractions, prior discipline, or aggravating and mitigating factors. See, e.g., In the Matter of Vincent S. Verdiramo, DRB 19-255 (January 21, 2020) (admonition; as a result of attorney's abrogation of his recordkeeping obligations, his nonlawyer assistant was able to steal more than $149,000 from his trust account; mitigating factors were the attorney's prompt actions to report the theft to affected clients, law enforcement, and disciplinary authorities; his deposit of $55,000 in personal funds to replenish the account; his extensive remedial actions; his acceptance of responsibility for his misconduct; and his unblemished, thirty-three year career); In re Bardis, 210 N.J. 253 (2012) (admonition; as a result of attorney's failure to review and reconcile his attorney records, his bookkeeper was able to steal $142,000 from his trust account, causing a shortage of $94,000; mitigating factors were the attorney's deposit of personal funds to replenish the account; numerous other corrective actions; his acceptance of responsibility for his misconduct; his deep remorse and humiliation for not having personally handled his own financial affairs; and his lack of a disciplinary record); In re Mariconda, 195 N.J. 11 (2008) (admonition; attorney delegated his recordkeeping responsibilities to his brother, a paralegal, who then forged the attorney's signature on trust account checks and stole $272,000 in client funds); In re Deitch, 209 N.J. 423 (2012)

(reprimand; as a result of attorney's failure to supervise his paralegal-wife and poor recordkeeping practices, $14,000 in client or third-party funds were invaded; the paralegal-wife stole the funds by negotiating thirty-eight checks issued to her by forging the attorney's signature or using a signature stamp; no prior discipline); In re Murray, 185 N.J. 340 (2005) (attorney reprimanded for failure to supervise nonlawyer employees, which led to the unexplained misuse of client trust funds and to negligent misappropriation; the attorney also committed recordkeeping violations); and In re Bergman, 165 N.J. 560 (2000) and In re Barrett, 165 N.J. 562 (2000) (companion cases; attorneys reprimanded for failure to supervise secretary/bookkeeper/office manager, who embezzled almost $360,000 from the firm's business and trust accounts and from a guardianship account; the attorneys cooperated with the OAE, hired a CPA to reconstruct the account, and brought their firm into full compliance with the recordkeeping rules; a bonding company reimbursed the losses caused by the embezzlement).

Here, respondent's misconduct extended to five client matters, constituting eleven RPC violations, over a one-year period. Respondent's behavior most resembles that of Pinnock, who received a three-month suspension for similar misconduct, in ten client matters, and caused significant harm to her clients. Unlike respondent, that attorney was also charged and found

guilty of gross neglect and a pattern of neglect, had a prior reprimand, and suffered from significant physical and mental health issues. To be sure, the instant case involves numerous RPC violations, but gross neglect was not charged. However, respondent's case involves multiple client matters and multiple instances of misconduct.

To craft the appropriate discipline, we also consider aggravating and mitigating factors. Notably, the misconduct in all the matters occurred in 2017 and part of 2018, and the grievances were filed between May and September of 2018. Therefore, it cannot be said that respondent should have had a heightened awareness of her duty to serve her clients because the misconduct occurred and the grievances were filed in roughly the same time period. Also, her attempt to increase business in family law matters, an area in which she was admittedly less than proficient and has since ceased, triggered the misconduct.

There was, however, egregious harm to the clients in three of the matters: Soto-Ortiz's matter was unnecessarily delayed; Quesada's matter was unnecessarily delayed and the pleadings respondent prepared were insufficient; and Krakoff's matter was dismissed, potentially extinguishing his opportunity for recovery. Also, respondent never provided Quesada with a refund. Although the five client matters under scrutiny in this matter are roughly

contemporaneous, we accorded the numerous client matters and RPC violations, and the significant harm to three clients, weight in aggravation.

In mitigation, respondent has no ethics history; took corrective measures, although she did not engage the assistance of Dargay until almost one year after the first grievance was filed; expressed deep remorse and contrition; readily admitted and apologized for her misconduct; quickly corrected her misrepresentation to the DEC investigator; did not gain from the misconduct; entered into the stipulations; performs community service; and submitted two character letters (from the same individual).

On balance, given that respondent readily admitted her misconduct and took corrective measures, we, thus, determine that the mitigation outweighs the aggravation, and that a censure is the quantum of discipline necessary to protect the public and preserve confidence in the bar.

Vice-Chair Gallipoli and Members Joseph and Zmirich voted to impose a three-month suspension.

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
Bruce W. Clark, Chair

By: **/s/ Timothy M. Ellis**
Timothy M. Ellis
Acting Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Mary Elizabeth Lenti
Docket Nos. DRB 20-260 and 20-273

Argued: February 18, 2021

Decided: June 30, 2021

Disposition: Censure

Members	Censure	Three-month Suspension
Clark	X	
Gallipoli		X
Boyer	X	
Hoberman	X	
Joseph		X
Petrou	X	
Rivera	X	
Singer	X	
Zmirich		X
Total:	6	3

/s/ Timothy M. Ellis
Timothy M. Ellis
Acting Chief Counsel