

The OAE asserted that, in the Pennsylvania matter, respondent violated the equivalents of New Jersey RPC 1.1(a) (ten instances – engaging in gross neglect); RPC 1.1(b) (engaging in a pattern of neglect); RPC 1.3 (ten instances – lacking diligence); RPC 1.4(b) (five instances – failing to keep a client reasonably informed about the status of a matter); RPC 1.4(c) (five instances – failing to explain a matter to the extent reasonably necessary to permit the client to make informed decisions); RPC 3.2 (three instances – failing to expedite litigation); and RPC 8.4(d) (five instances – engaging in conduct prejudicial to the administration of justice).

For the reasons set forth below, we determine to grant the OAE’s motion for reciprocal discipline and conclude that a six-month suspension, with a condition, is the appropriate quantum of discipline for respondent’s misconduct.

Respondent earned admission to the New Jersey bar in 2009 and the Pennsylvania bar in 2008. He has no prior discipline in New Jersey. During the relevant period, he maintained a solo practice of law, until February 2019, when he joined the law firm of Coover & Associates, PLLC (the Firm) at its Carlisle, Pennsylvania location. When that employment ended, in September 2019, he returned to solo practice.

On August 28, 2017, the Court declared respondent administratively ineligible to practice law in New Jersey for his failure to pay the annual

assessment to the New Jersey Lawyers' Fund for Client Protection, as R. 1:28-2 requires.

On November 5, 2018, the Court again declared respondent administratively ineligible to practice law in New Jersey for his failure to comply with continuing legal education requirements. Respondent remains administratively ineligible, on both bases, to date.

On April 19, 2022, the Pennsylvania Supreme Court suspended respondent, on consent, for one year and one day, after he filed a verified statement and affidavit of consent to this discipline in connection with his misconduct underlying the instant matter. Office of Disciplinary Counsel v. Williams, 2022 Pa. LEXIS 478 (2022). Respondent has no additional public discipline in Pennsylvania.

The facts of this matter are uncontested and mostly relate to respondent's handling of client matters while he was employed by the Firm, for a period of seven months, as described below.

The Firm's founding member (the Managing Partner) hired respondent in February 2019 and terminated his employment in September of the same year. The allegations at issue stem from multiple client matters that he handled while with the Firm and, in some cases, reflect his further conduct after he returned to solo practice.

During respondent's time at the Firm, staff members and clients "expressed concern to [the Managing Partner] about [r]espondent's suspected alcohol use and possible mental health issues." The Managing Partner spoke with him about these reports on more than one occasion, encouraging him to contact Pennsylvania's Lawyers Concerned for Lawyers (LCL) program. Respondent shared that he was working through anxiety issues, for which his physician had prescribed various medications. He "denied the reports about his alleged alcohol use and the need to contact LCL."

The Firm terminated respondent's employment on September 23, 2019. Thereafter, the Managing Partner informed respondent's clients that he was no longer associated with the Firm. The Firm retained the clients' files pending each client's determination of whether to continue respondent's representation.

In November 2019, about six weeks after being terminated, respondent returned to the Firm's office to retrieve a file for a client whose name he had forgotten. Although staff told him that the Managing Partner (who was not present) did not want him at the office, he remained there and began going through his old files. The Managing Partner then returned to the office, informed respondent he was trespassing, and asked him to leave. He continued to look through the files and she insisted that he stop. Respondent then left the office,

“yell[ing] that [the Managing Partner] did not understand that he was having a nervous breakdown.”

Subsequently, respondent sent the Managing Partner text messages in which he apologized for his behavior while at the Firm. He further stated that, on most days, it took all his strength to leave his bedroom, let alone interact with other individuals or draft motions; most of the time, he could not leave his home without becoming physically ill; and when he left his home, he often vomited.

On January 3, 2020, the Managing Partner filed Pennsylvania’s equivalent of an ethics grievance against respondent. After investigating the allegations, the ODC undertook disciplinary proceedings. Ultimately, in March 2022, the ODC and respondent filed with the Disciplinary Board of the Pennsylvania Supreme Court (the Pennsylvania Disciplinary Board) a joint petition in support of discipline.

In that petition, respondent admitted having violated various Pennsylvania Rules of Professional Conduct and Disciplinary Enforcement. His admissions stemmed from ten client matters, as follows.

The Lebo Matter

Lonn Lebo retained respondent to represent him in a post-divorce child custody and support proceeding. On October 31, 2018, respondent represented

Lebo in a conciliation conference, wherein the parties sought, without success, to address the custody schedule.¹ In the months following that conference, Lebo was unable to contact respondent, despite his repeated attempts to do so.

In May 2019, Lebo sent the Managing Partner of the Firm an e-mail, in which he alleged that respondent had done very little work on the case since the October conference and, thus, had allowed Lebo's former spouse to collect child support payments that were calculated based on incorrect information. He further expressed concerns that respondent was experiencing personal or professional issues.

In July 2019, Lebo's former spouse filed a petition for special relief. Respondent filed an answer to the petition on Lebo's behalf two days after the applicable filing deadline. There is no indication in the record that the court rejected the answer.

The Stark Matter

Joseph Stark retained respondent to represent him in a divorce matter. On April 11, 2019, respondent filed a motion for the appointment of a divorce

¹ Pursuant to the local rules of the Cumberland County Court of Common Pleas, actions for custody, partial custody, and visitation of minor children are initially scheduled for a conciliation conference to facilitate settlement; if settlement is not reached, the court will then direct the matter for hearing. Pa. R.C.P. No. 1915.4-2; Pa. Cumberland Cty. Civ. LR 1915.3-1 to 3-8(B).

master on the client's behalf. Afterward, he failed to adequately communicate with Stark.

The Hoy Matter

Daniel Hoy retained respondent to represent him in a matter involving allegations of driving while under the influence (DUI). The court scheduled a pretrial conference for May 6, 2019, and respondent purportedly informed Hoy that he would request a continuance of that conference because Hoy had multiple dockets to be resolved simultaneously. Subsequently, without informing the client, respondent arranged for John Magnan, Esq., (who was not affiliated with the Firm) to appear for the conference and request the continuance.

Magnan arrived an hour late for the conference. In the interim, Hoy called the firm, stating that he was without representation. The Managing Partner went to the courthouse, spoke with Hoy, whom she later described as "very upset and . . . shaking," and arranged for a different attorney to appear for the conference.

The McCorkle Matter

Dustin McCorkle retained respondent to represent him in a traffic matter. The morning of the day the trial was scheduled to take place, respondent sent a text message a staff member of the Firm, stating that he was sick and could not

appear in court that day, and asking the staff member to relay the message to the court. The staff member contacted the judge, but the judge declined to continue the matter.

When the Managing Partner called respondent later that day, he expressed that he had not been concerned about the client because he had been certain the judge would find the client guilty; he further noted that the client could file an appeal. He also expressed his view that one role of staff was to contact the court if an attorney could not appear for a scheduled proceeding; the Managing Partner, however, disapproved of attorneys asking staff to do this. She tried to continue the conversation, but respondent said he was too ill to do so.

The Yesser Matter

Jason Yesser retained respondent to represent him in a DUI matter. Yesser was admitted to Pennsylvania's accelerated rehabilitative disposition (ARD) program and scheduled for an ARD hearing on October 2, 2019. Respondent did not enter the date into the Firm's shared calendar, apparently relying on staff to do so.

Respondent's employment with the Firm was terminated nine days before the ARD hearing. He did not appear for the hearing.

The Jurisic Matter

Edith Jurisic retained respondent to represent her in a DUI matter. In November 2018, Jurisic pleaded guilty and, in February 2019, the court sentenced her to a term of house arrest and electronic monitoring. Jurisic then asked respondent to file a motion to modify her sentence. He failed to draft the motion.

On October 2, 2019, after terminating respondent's employment, the Managing Partner contacted him to request the draft motion, which she believed he had prepared. Respondent refused to send it, claiming it was "work product." The Managing Partner then asked respondent to forward her the fees he had received from Jurisic, because the Firm would now be preparing the motion. Respondent told the Managing Partner to ask Jurisic for additional funds, "assert[ing] that [she] had chosen to 'handle things' that way when she terminated" his employment. The Firm subsequently filed the modification motion.

The Bower Matter

In July 2019, respondent commenced the representation of Tessa Bower in a civil suit, in which she already had been served with a motion to compel her

to respond to interrogatories and requests for production of documents. Respondent failed to file a response to the motion.

Consequently, the court granted the motion to compel and entered an order requiring Bower to provide discovery by August 12, 2019. However, respondent both failed to provide discovery by that date or to request an extension.

On August 14 and again on August 26, 2019, opposing counsel sent e-mails to respondent, reiterating demands for discovery. Respondent neither provided the materials nor answered the e-mails.

As a result, on or about September 3, 2019, opposing counsel filed a motion for sanctions against Bower. The court ordered that the discovery materials be provided within thirty days and, further, required Bower to pay the opposing party's legal fees for the sanction motion. Respondent failed to provide the discovery within thirty days.

Thereafter, in October 2019 – after respondent's employment with the Firm had ended – opposing counsel filed a motion for entry of default and additional sanctions. The court subsequently entered a default judgment against Bower and, further, ordered her to pay the opposing party's legal fees related to the motion.

The Managing Partner contacted respondent in November 2019 to ask if he was aware of the default judgment. He stated he was not. The Firm

subsequently filed a petition to lift the default judgment, which the court granted. However, Bower was ordered to pay opposing counsel \$750 in sanctions. The Firm made the payment on her behalf.

During the Pennsylvania disciplinary proceedings, respondent candidly admitted “utterly failing to represent Ms. Bower” and that “his only defense [was] that this was the high/low point of his anxiety/depression and [he] was seeking medical assistance at the time.”

The Moore Matter

Christopher Moore retained respondent on or about September 3, 2019 to represent him in a DUI matter. On September 6, 2019, respondent failed to appear for Moore’s preliminary hearing. When the Managing Partner called respondent about his absence from court, he stated, “that sucks.” The Managing Partner proceeded to represent Moore at the hearing.

The Depew Matter

In August 2019, the Firm assigned respondent to represent Brian Depew in a custody matter. Respondent failed to file a pretrial statement, which the court had ordered be submitted before a September 23, 2019 pretrial conference.

Further, although he and Depew arranged to meet an hour before that conference, respondent did not show up at the scheduled meeting time.

Respondent appeared for the pretrial conference but failed to “provide coherent responses” to the judge’s questions. During the conference, the judge stated that respondent’s “conduct deprived Mr. Depew of the guidance he needed.”

Depew subsequently retained other counsel.

The Smith Matter

Brandon Smith retained respondent to represent him in a criminal matter. On August 22, 2019, respondent appeared on Smith’s behalf and waived a preliminary hearing.

After respondent’s termination from the Firm, Smith chose to continue to retain him as counsel. Nevertheless, on October 18, 2019, the Managing Partner entered her appearance as Smith’s counsel “to address a pressing matter.” Subsequently, the Managing Partner asked respondent to file “an entry to substitute appearance,” which would remove her as counsel.

However, respondent filed “an entry of appearance” instead and, thus, the Managing Partner was not removed as counsel.

In mid-January 2020, respondent met with Smith to discuss his matter before an upcoming pretrial conference, and Smith paid him \$600 for his representation. However, less than a week later, respondent failed to appear for the pretrial conference. Smith “attempted to call [r]espondent, but was unable to speak with him.” Respondent, in his written submission to the ODC, stated that he had been hospitalized and “arrangements were made for Attorney Magnan to represent Smith.” According to the Managing Partner, when she was at the courthouse later that day for another matter, the trial judge – apparently believing she was still Smith’s counsel – asked her why she had not appeared for the conference. The judge had scheduled another pretrial conference.

Smith subsequently retained Magnan to represent him.

As noted above, in January 2020, the Managing Partner submitted a complaint to the ODC. Thereafter, on June 25, 2020, the ODC wrote to respondent, informing him of the allegations of misconduct against him and requesting his response. In August 2020, respondent submitted his answer to the allegations and, in September, the Managing Partner filed a reply to his answer.

On March 10, 2022, the ODC and respondent filed with the Pennsylvania Disciplinary Board a joint petition in support of discipline, recommending a one-

year-and-one-day suspension, pursuant to Pa. R.D.E. 215(d).² In respondent’s accompanying verification and affidavit, he “acknowledge[d] that the material facts set forth in the Joint Petition are true.” In the petition, he admitted having violated the following Pennsylvania Rules of Professional Conduct and Rules of Disciplinary Enforcement: Pa. RPC 1.1; Pa. RPC 1.3; Pa. RPC 1.4(a)(2), (a)(3), and (a)(4); Pa. RPC 1.4(b); Pa. RPC 3.2; Pa. RPC 4.4(a); Pa. RPC 8.4(d); and Pa. R.D.E. 219(d)(3).

On March 21, 2022, a three-member panel of the Pennsylvania Disciplinary Board approved the joint petition and recommended that it be granted. On April 19, 2022, the Pennsylvania Supreme Court granted the joint petition and suspended respondent on consent for a period of one year and one day. Office of Disciplinary Counsel v. Williams, 2022 Pa. LEXIS 478 (2022).

Contrary to Rule 1:20-14(a)(1), respondent failed to promptly notify the OAE of his Pennsylvania suspension.

In its submission to us, the OAE urged that we find that respondent’s misconduct in Pennsylvania, to which he unequivocally admitted, violated the

² Pa. R.D.E. 215(d), governing discipline by consent, provides that “[a]t any stage of a disciplinary investigation or proceeding, a respondent-attorney and Disciplinary Counsel may file a joint Petition in Support of Discipline on Consent. The Petition shall include the specific factual allegations that the attorney admits he or she committed, the specific Rules of Professional Conduct and Rules of Disciplinary Enforcement allegedly violated and a specific recommendation for discipline.” The petition also must be accompanied by an affidavit “stating that the attorney consents to the recommended discipline” and containing other specific acknowledgments set forth by the Rule.

equivalents of New Jersey RPC 1.1(a) (ten instances); RPC 1.1(b); RPC 1.3 (ten instances); RPC 1.4(b) (five instances); RPC 1.4(c) (five instances); RPC 3.2 (three instances);³ and RPC 8.4(d) (five instances). The OAE asserted that there was insufficient evidence in the record to conclude that respondent violated RPC 4.4(a) (engaging in conduct that has no substantial purpose other than to embarrass, delay, or burden a third person), although respondent admitted violating the substantially similar Pennsylvania RPC (Pa. RPC 4.4(a)).

Specifically, the OAE alleged that respondent's handling of each of the ten matters evidenced gross neglect and failure to diligently pursue his clients' interests, in violation of RPC 1.1(a) and RPC 1.3. In addition, noting that, to establish a pattern of neglect, the Court must find at least three instances of neglect, in three distinct client matters, the OAE concluded that respondent's neglect of the ten matters "evidence[d] a pattern of neglect in violation of [RPC] 1.1(b)."

The OAE further argued that respondent had "failed to appropriately communicate and keep his clients reasonably informed" in the Lebo; Stark; Hoy; Depew; and Smith matters, in violation of RPC 1.4(b) and (c). In addition, it

³ Although the OAE noted that "it may be argued that each of [r]espondent's violations of RPCs 1.1(a) and 1.3 constitute[s] a delay in litigation," it focused on three matters in which respondent's conduct "certainly" violated RPC 3.2. Accordingly, we construed the OAE's brief as charging respondent with three instances of violating RPC 3.2.

urged that, while he arguably delayed litigation in each of the ten matters, he certainly did so in Bower, by failing to provide discovery; and in Lebo and Depew, as well, by failing to file documents requested by the court, thus violating RPC 3.2. Finally, highlighting respondent's conduct in the Hoy, McCorkle, Yesser, Moore, and Smith matters, the OAE argued that respondent's "repeated failure to appear in [c]ourt . . . constitute[d] a waste of judicial resources," in violation of RPC 8.4(d).

Although respondent was suspended for one year and one day in Pennsylvania, the OAE urged that, pursuant to R. 1:20-14(a)(4)(e), substantially different discipline is warranted in New Jersey. Thus, it argued that respondent should receive a six-month suspension for his Pennsylvania misconduct.

The OAE reasoned that respondent's "most egregious misconduct – his neglect of ten client matters, which is the genesis of the other RPC violations – warrants at least a three-month suspension." Citing In re Pinnock, 236 N.J. 96 (2018), and In re Tarter, 216 N.J. 425 (2014), the OAE noted that, in cases in which attorneys have received three-month suspensions for mishandling multiple matters, the attorneys "proffered significant mitigation, including evidence of alcoholism and depression." In contrast, in the instant matter, although respondent represented "that his misconduct coincided with a period when he was struggling with severe anxiety and depression," evidence to this

effect had not been provided to the OAE.⁴ Thus, the OAE deferred to “the ODC’s conclusion that [r]espondent’s mental health not be considered in mitigation,” based on the ODC’s conclusion that the materials he had provided in connection with his Pennsylvania disciplinary matter “did not identify a causal connection between his mental health issues and his misconduct.”

The OAE also distinguished the instant matter from cases in which attorneys have received one-year suspensions after mishandling multiple matters. Citing In re Pollan, 143 N.J. 305 (1996), and In re Rosenthal, 208 N.J. 485 (2012), among other cases, the OAE noted that in those matters, the attorneys engaged in “more serious misconduct, including failure to cooperate with disciplinary authorities (Pollan) and conduct involving dishonesty, fraud, deceit, or misrepresentation (Rosenthal) in more client matters for longer periods of time.”

The OAE concluded that a six-month suspension should be imposed because respondent had neither presented evidence of mitigation on a par with that provided by the attorneys who received three-month suspensions, nor engaged in misconduct rising to the level of the violations committed by attorneys who received one-year suspensions.

⁴ The OAE requested that, if respondent intended “to raise his struggle with anxiety and depression in mitigation,” he provide the OAE with evidence of same.

The OAE weighed, in aggravation, respondent's failure to promptly notify the OAE of his Pennsylvania discipline. It weighed, in mitigation, the fact that respondent had no disciplinary history and cooperated fully with Pennsylvania disciplinary authorities.

Respondent did not submit a brief for our consideration. Rather, he waived his appearance and agreed with the OAE's recommendation for discipline.

Following a review of the record, we determine to grant the OAE's motion for reciprocal discipline. Pursuant to Rule 1:20-14(a)(5), "a final adjudication in another court, agency or tribunal, that an attorney admitted to practice in this state . . . is guilty of unethical conduct in another jurisdiction . . . shall establish conclusively the facts on which it rests for purposes of a disciplinary proceeding in this state." Thus, with respect to motions for reciprocal discipline, "[t]he sole issue to be determined . . . shall be the extent of final discipline to be imposed." R. 1:20-14(b)(3).

In Pennsylvania, the standard of proof in attorney disciplinary proceedings is that the "[e]vidence is sufficient to prove unprofessional conduct if a preponderance of the evidence establishes the conduct and the proof . . . is clear and satisfactory." Office of Disciplinary Counsel v. Kissel, 442 A.2d 217 (Pa. 1982) (quoting In re Berland, 328 A.2d 471 (Pa. 1974)). Moreover, "[t]he

conduct may be proven solely by circumstantial evidence.” Office of Disciplinary Counsel v. Grigsby, 425 A.2d 730 (Pa. 1981) (citations omitted).

In the context of a motion for reciprocal discipline, the Court’s review “involves ‘a limited inquiry, substantially derived from and reliant on the foreign jurisdiction’s disciplinary proceedings.’” In re Barrett, 238 N.J. 517, 522 (2019) (quoting In re Sigman, 220 N.J. 141, 153 (2014)). Nevertheless, clear and convincing evidence must support each of our findings that respondent violated the New Jersey Rules of Professional Conduct. See Barrett, 238 N.J. at 521; In re Pena, 164 N.J. 222 (2000).

Notably, in this matter, respondent admitted to the material facts and the violations of the Pennsylvania RPCs that formed the bases for his consent to his one-year-and-one-day suspension. However, the Pennsylvania petition does not specify which RPC violations stem from each client’s matter.

Reciprocal discipline proceedings in New Jersey are governed by R. 1:20-14(a)(4), which provides in pertinent part:

The Board shall recommend the imposition of the identical action or discipline unless the respondent demonstrates, or the Board finds on the face of the record on which the discipline in another jurisdiction was predicated that it clearly appears that:

(A) the disciplinary or disability order of the foreign jurisdiction was not entered;

(B) the disciplinary or disability order of the foreign jurisdiction does not apply to the respondent;

(C) the disciplinary or disability order of the foreign jurisdiction does not remain in full force and effect as the result of appellate proceedings;

(D) the procedure followed in the foreign disciplinary matter was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or

(E) the unethical conduct established warrants substantially different discipline.

In our view, subsection (E) applies here because the unethical conduct established by the record warrants substantially different discipline. Specifically, pursuant to New Jersey disciplinary precedent, respondent's violations of the Rules of Professional Conduct, although diverse and serious, do not rise to the level that would warrant the imposition of a one-year suspension.

Turning to the charged violations, we determine that the record contains clear and convincing evidence that respondent engaged in unethical conduct in the Lebo; Stark; Hoy; Jurisic; Bower; Moore; Depew; and Smith matters, in violation of RPC 1.1(a) (four counts); RPC 1.1(b); RPC 1.3 (four counts); RPC 1.4(b) (five counts); RPC 1.4(c) (four counts); RPC 3.2 (two counts); and RPC 8.4(d) (one count). In addition, respondent's gross neglect of four matters established a pattern of neglect, in violation of RPC 1.1(b). However, we

determine that the remaining charges in these eight matters lack sufficient support and, accordingly, we dismiss them.

Moreover, as further discussed below, in respect of the McCorkle and Yesser matters, we determine that our “limited inquiry, substantially derived from and reliant on” Pennsylvania’s disciplinary proceedings, leaves us unable to conclude that respondent violated the New Jersey Rules of Professional Conduct.

We turn to addressing the violations in each client matter, starting with the eight matters in which clear and convincing evidence establishes that respondent engaged in unethical conduct.

Specifically, in the Lebo matter, respondent admittedly failed to respond to any of the client’s repeated attempts to contact him during a period of at least six months. In addition, he failed to keep Lebo adequately informed to make decisions about the representation, as evidenced by Lebo’s claim that respondent “had done very little” and had failed to address incorrectly calculated child support payments, despite respondent’s assertions to the contrary – that he had worked on the matter and, moreover, that the calculations had been corrected. Thus, respondent violated RPC 1.4(b) and (c).

However, we determine that the record does not adequately support charges that respondent engaged in gross neglect, lacked diligence, or failed to

expedite the ongoing child support and custody matter, in violation of RPC 1.1(a), RPC 1.3, and RPC 3.2. Although Lebo expressed dissatisfaction with respondent's efforts, respondent contested Lebo's allegations that he had not performed work; the record does not otherwise corroborate Lebo's claim that respondent had not handled the matter adequately (other than failing to communicate sufficiently with him); and respondent identified other, interpersonal issues within the divorce, that made it difficult to advance the matter. Respondent's filing, two days late, of the answer to the petition filed by Lebo's former spouse may constitute neglect but does not constitute unethical conduct, absent any evidence that the court rejected the answer or that the two-day delay affected the proceedings. See In the Matter of Marc Z. Palfy, DRB 15-193 (March 30, 2016) (dismissing an RPC 1.1(a) charge based on an attorney's filing of an incomplete bankruptcy petition and his failure to reply to the notice of missing documents, resulting in the dismissal of the case; the petition was reinstated several weeks later, after which the matter proceeded in the normal course), so ordered, 225 N.J. 611 (2016).

In the Stark matter, respondent's uncontroverted admission that he "failed to adequately communicate with Mr. Stark" supports the charged violations of RPC 1.4(b) and (c). However, we dismiss the RPC 1.1(a) and RPC 1.3 charges,

because the record provides no other information about this matter, let alone facts sufficient to support those charges.

In the Hoy matter, respondent arranged for Magnan to cover a pretrial hearing without informing the client. He had, however, purportedly discussed with Hoy that he would be requesting a continuance at the conference. On the day of the pretrial hearing, Magnan arrived an hour late, alarming Hoy and prompting him to contact the Firm to report that he was without representation. Respondent's failure to inform the client that Magnan would be representing him at the conference constitutes a violation of RPC 1.4(b), as Hoy was left waiting at the courthouse with no information about the status of his representation on the date of the pretrial conference. However, the record does not adequately support a finding that respondent failed to explain the matter to Hoy to the extent necessary to make informed decisions; on the contrary, respondent reported he had discussed with Hoy the plan to request a continuance. Further, the seemingly isolated failure to inform Hoy that Magnan would be appearing that day does not rise to the level of gross neglect nor evidence a lack of diligence. Finally, Magnan's late arrival cannot be attributed to respondent and, in any event, it would be an overstatement to characterize the resulting delay as prejudicing the administration of justice. Thus, we determine

to dismiss the RPC 1.1(a), RPC 1.3, RPC 1.4(c), and RPC 8.4(d) charges in the Hoy matter.

In the Jurisc matter, respondent's failure to draft the motion to modify the client's sentence – which appears to have been the client's primary or sole goal for her representation during the period at issue – evidences respondent's utter disregard for the matter and for his client's interests. The record amply supports the charged violations of RPC 1.1(a) and RPC 1.3.

In the Bower matter, the three charged violations – RPC 1.1(a), RPC 1.3, and RPC 3.2 – are clearly and convincingly supported by respondent's admitted failure to respond to the motion to compel discovery; provide discovery either before or after the court granted the order to compel; and the resulting court order imposing a monetary sanction on Bower.⁵ The court's eventual entry of the order of default against Bower is less clearly attributable to respondent, because the Firm had terminated his employment before the final deadline for discovery passed and the subsequent motion for default was filed; however, the Firm later petitioned, successfully, to have the default order lifted.

⁵ The OAE did not charge respondent with violating RPC 8.4(d) in connection with the Bower matter, and Pennsylvania did not charge respondent under its equivalents of RPC 3.4(c) (knowingly disobeying an obligation under the rules of a tribunal) and RPC 3.4(d) (failing to comply with discovery requests). Accordingly, we are precluded from making such findings. See R. 1:20-4(b) (providing that the complaint shall “specify[] the ethical rules alleged to have been violated”). We, nevertheless, consider this misconduct in aggravation.

In the Moore matter, respondent failed to appear for a preliminary hearing before the Magisterial District Court in a DUI matter, and his comment to the Managing Partner when she called him at the time – “that sucks” – does not suggest any explanation of his absence or any attempt to address the situation himself that day. Although the Managing Partner’s swift action in proceeding to the courthouse and appearing in respondent’s place seems to have prevented his absence from affecting the client’s case, respondent put the client at risk of having no representation during a preliminary hearing, which, in Pennsylvania, yields a determination of whether a complaint will be dismissed or proceed before the Court of Common Pleas. See Pa. R.Crim.P. 543(B), (E). This misconduct supports the charges of gross neglect and lack of diligence, in violation of RPC 1.1(a) and RPC 1.3. However, without evidence of any effect on court resources (due to the Managing Partner’s prompt action), we determine to dismiss the charge of conduct prejudicial to the administration of justice, in violation of RPC 8.4(d).

In the Depew matter, respondent’s failure to file the pretrial statement, meet with the client before the pretrial conference, and provide coherent answers during the conference with the court demonstrated lack of diligence; inadequate communication with the client; failure to expedite the litigation; and, in

combination, gross neglect, in violation of RPC 1.1(a); RPC 1.3; RPC 1.4(b) and (c); and RPC 3.2.

Finally, in the Smith matter, respondent failed to appear for a criminal pretrial conference without timely arranging for another attorney to appear and without contacting the court or the client. Respondent's statement, during the ODC investigation, that he "was hospitalized and arrangements were made for [Magnan] to represent Smith," does not adequately explain why Smith was left without representation and with no information from counsel at the time of the hearing. Respondent violated RPC 1.4(b) and (c) by not informing Smith he would not be appearing that day. He also wasted judicial resources, in violation of RPC 8.4(d), by failing to appear without notifying the court in advance, requesting a continuance, or arranging for another attorney to appear.

However, the record does not support a conclusion that respondent engaged in gross neglect or lacked diligence in his handling of the Smith matter. He had met with Smith three days before the conference to discuss the criminal matters, and the record supports a finding that he facilitated (albeit in an unspecified and apparently untimely manner) Smith's retention of Magnan to represent him going forward. Moreover, respondent's filing of an entry of appearance rather than a substitution of counsel after the Managing Partner had appeared for the October 2019 proceeding, while careless, was not unethical.

In contrast to the eight matters addressed above, respondent's actions underlying the charges in McCorkle and Yesser do not constitute violations of the New Jersey Rules of Professional Conduct.

In the McCorkle matter, respondent was sick on the day of trial and sent a text message to a staff member of the Firm, directing her to inform the court he would be unable to appear. The court received the message but declined to continue the matter at that time; however, there is no contention in the record that the matter did not proceed at a later date. Although respondent's approach to alerting the court that he could not appear fell short of the Firm's standards, it did not constitute an ethical lapse. Further, to the extent that the charges stem from his conversation with the Managing Partner later that day, the record gives no context for interpreting his unfortunate remarks at that time as indicative of gross neglect or other misconduct. Nor does the record elsewhere provide examples of misconduct in the matter.

In the Yesser matter, respondent failed to enter the date of the client's hearing into the Firm's shared calendar; he was then terminated from the Firm; and on the date of Yesser's ARD hearing, neither he nor an attorney from the Firm appeared. Respondent's account of relying on staff to enter the date is reasonable. Even if it were his responsibility to add the date to the calendar, failing to do so was careless, not grossly negligent. Moreover, the allegations do

not address the fact that the Firm (not respondent) retained Yesser's file, and there is no evidence that Yesser had chosen to have respondent continue to represent him.

In sum, we determine to grant the motion for reciprocal discipline based on respondent's misconduct in the Lebo; Stark; Hoy; Jurisic; Bower; Moore; Depew; and Smith matters. Specifically, respondent violated RPC 1.1(a) and RPC 1.3 in four client matters (Jurisic; Bower; Moore; and Depew); he violated RPC 1.1(b) by engaging in a pattern of neglect; he violated RPC 1.4(b) in five client matters (Lebo; Stark; Hoy; Depew; and Smith); he violated RPC 1.4(c) in four client matters (Lebo; Stark; Depew; and Smith); he violated RPC 3.2 in two client matters (Bower and Depew); and he violated RPC 8.4(d) in one client matter (Smith).

However, we determine to dismiss the charges based on the McCorkle and Yesser matters. Further, we dismiss the charges that respondent committed other violations, not listed in the preceding paragraph, in the Lebo; Stark; Hoy; Moore; and Smith matters.

In cases where attorneys have mishandled multiple client matters, the Court generally has imposed suspensions ranging from three months to one year. See, e.g., In re Gonzalez, 241 N.J. 526 (2020) (three-month suspension for attorney's violations of RPC 1.1(a), RPC 1.3, and RPC 1.4(b) and (c) in three

matters; RPC 3.2 and RPC 3.4(d) in one matter; RPC 5.3(a) (failing to supervise nonlawyer staff) in six matters; RPC 8.1(a) (making a false statement of material fact in a disciplinary matter); RPC 8.1(b) (failing to cooperate with disciplinary authorities); and RPC 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation); the attorney also negligently misappropriated funds in five matters, commingled funds, and failed to adhere to record keeping requirements, violating RPC 1.15(a) and (d); in aggravation, one client's case was dismissed with prejudice, and the attorney had disregarded the OAE's suggestion that he terminate the employment of a nonlawyer after he became aware of her repeated misconduct; in mitigation, attorney had no prior discipline in twenty-two years at the bar); In re Pinnock, 236 N.J. 96 (2018) (three-month suspension for attorney whose misconduct spanned ten client matters; in nine matters, the attorney engaged in gross neglect, lacked diligence, and failed to communicate with clients; in four matters, she engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation; in aggravation, the attorney caused significant harm to her clients; in mitigation, she suffered from serious physical and mental health issues; prior reprimand); In re Tarter, 216 N.J. 425 (2014) (three-month suspension for misconduct in eighteen matters: lack of diligence and pattern of neglect spanning fifteen matters; gross neglect in one matter; and failure to withdraw from the representation and to properly terminate

the representation in all eighteen matters; in significant mitigation, the attorney was battling alcoholism, engaged in most of his misconduct within a three-month period, and had no prior discipline in his eight-year career); In re Gruber, 248 N.J. 205 (2021) (six-month suspension for attorney who committed misconduct in six matters, including gross neglect of five matters, where he failed to file a complaint in one matter while allowing four other matters to be dismissed after filing complaints; four matters were later reinstated or settled but in the fifth, the statute of limitations had passed, precluding the client from obtaining relief; the attorney also engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in five matters; violations of RPC 1.1(a), RPC 1.1(b), RPC 1.3, RPC 1.4(b), RPC 1.4(c), RPC 3.2, RPC 8.4(c), and RPC 8.4(d); prior censure for similar misconduct in two matters from the same period; in mitigation, attorney suffered from mental health issues and was actively pursuing treatment); In re Drinkwater, 244 N.J. 195 (2020) (six-month suspension for attorney who was found guilty of gross neglect and lack of diligence in nine matters; failure to communicate with the client in three matters; failure to supervise nonlawyer staff in two matters; unreasonable fee in one matter; and pattern of neglect; in aggravation, the misconduct extended to nine client matters over four years; in mitigation, the attorney had no ethics history, suffered from serious mental health issues, 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 Tyler, 235 N.J. 323 (2018) (six-month suspension for attorney who engaged in misconduct in five client matters, violating RPC 1.1 (a) and (b), RPC 1.3, RPC 1.4(b), and RPC 1.5(b) (failing to set forth in writing the basis or rate of the legal fee); the attorney also engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation (RPC 8:4(c)); two prior reprimands for similar misconduct); In re Tunney, 185 N.J. 398 (2005) (six-month retroactive suspension for misconduct in three client matters; 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; in aggravation, he had a prior six-month suspension for mishandling six client matters, as well as a prior reprimand); In re Perlman, 241 N.J. 95 (2020) (one-year retroactive suspension for attorney who committed 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; in aggravation, he caused significant harm to his clients; prior one-year suspension); In re Calpin, 242 N.J. 75 (2020) (one-year suspension, in default matter, for attorney who performed little or no work on three matters, failed to communicate with his clients, and failed to return the unearned portion of the fees to each client; the attorney also lied to disciplinary authorities and disclosed client information not generally known to the public; violations of RPC 1.1(a) and (b), RPC 1.3, RPC 1.4(b), RPC 1.9(c) (improperly using information to the disadvantage of a former client), RPC 1.15(b) (failing to refund the unearned portion of the fee upon termination of the representation), RPC 1.16(d), RPC 8.1(b), and RPC 8.4(c); we determined that, although a censure would be the minimum sanction for the attorney's misconduct, aggravating factors – including the attorney's default, disciplinary history of a reprimand and an admonition for similar ethics infractions, and use of social media to disparage a former client – warranted enhanced discipline); In re Suarez-Silverio, 226 N.J.

547 (2016) (one-year suspension for attorney who, over thirteen years, mishandled twenty-three client matters before the Third Circuit Court of Appeals, many of which ended by procedural termination; the attorney also disobeyed court orders and made a misrepresentation to the court clerk, which enhanced the otherwise appropriate six-month suspension; prior admonition and reprimand for similar misconduct); In re Rosenthal, 208 N.J. 485 (2012) (one-year suspension for attorney whose misconduct spanned seven default matters, 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).

Conduct prejudicial to the administration of justice comes in a variety of forms, and the discipline imposed for the misconduct ranges from a reprimand to a suspension, depending on other factors present, including the existence of other violations, the attorney's ethics history, whether the matter proceeded as a default, the harm to others, and mitigating or aggravating factors.

We have imposed discipline ranging from an admonition to a censure in cases in which attorneys have violated RPC 8.4(d) by failing to appear for scheduled court proceedings. See, e.g., In the Matter of Leticia Zuniga, DRB 19-432 (March 20, 2020) (admonition for attorney who failed to appear for a motion hearing, despite the court's multiple notifications that she was required to appear; the attorney had failed to provide discovery to the plaintiff, prompting the motion to suppress; further, she initially failed to cooperate with disciplinary authorities; violations of RPC 1.3, RPC 3.2, RPC 3.4(c), RPC 8.1(b), and RPC 8.4(d); among other mitigating factors, we weighed that the attorney had no prior discipline in her sixteen years at the bar); In re Ali, 231 N.J. 165 (2017) (reprimand for attorney who failed to appear when ordered to do so and failed to file a substitution of attorney, violations of RPC 3.4(c) and RPC 8.4(d); he also lacked diligence, failed to expedite litigation, and engaged in ex parte communications with a judge; in mitigation, we considered his inexperience, unblemished disciplinary history, and the fact that his conduct was limited to a

single client matter); In re D'Arienzo, 207 N.J. 31 (2011) (censure for attorney's failure to appear for a scheduled criminal trial and, thereafter, at two orders to show cause stemming from his failure to appear, in violation of RPC 8.4(d); prior three-month suspension and two admonitions for similar misconduct).

Respondent's mishandling of multiple matters most closely corresponds to that of attorneys who have received three-month suspensions. In Gonzalez, the attorney engaged in gross neglect, lacked diligence, and failed to communicate adequately in fewer matters than respondent; however, he engaged in more wide-ranging misconduct than respondent, failing to supervise nonlawyer staff, negligently misappropriated funds, and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation. In Pinnock, the attorney mishandled more matters than respondent did; and although Pinnock did not violate RPC 3.2 or RPC 8.4(d) (as respondent did), she misled clients in four matters, violating RPC 8.4(c), whereas respondent did not. In Tarter, the attorney mishandled eighteen matters, and although he committed gross neglect in only one, he failed to withdraw from the representation or to properly terminate the representation in all eighteen matters.

Each of these three matters included strong mitigating factors not present in the instant matter. But, on balance, those factors operated to offset more egregious misconduct or aggravating factors than this matter presents. For

example, in Gonzalez, we weighed the attorney's unblemished record in twenty-two years at the bar in mitigation, but also weighed, in aggravation, his failure to terminate the employment of a nonlawyer whom he knew had engaged in repeated misconduct. In Pinnock, we weighed the attorney's serious physical and mental health issues in mitigation, but also weighed, in aggravation, the significant harm she caused her clients, as well as her prior reprimand. In Tarter, we weighed the attorney's challenges due to alcoholism, the fact that his misconduct was concentrated in a three-month period, and the absence of prior discipline in eight years at the bar; but in comparison to respondent, Tarter mishandled more than twice as many matters.

Thus, although (as will be discussed below) the instant matter lacks the strong mitigating factors present in Gonzalez, Pinnock, and Tarter, it also lacks the significant aggravating factors or scope of misconduct featured in those matters. These cases support a conclusion that a three-month suspension is the appropriate baseline discipline for respondent's misconduct.

Further underscoring this conclusion, respondent's matter is distinguishable from disciplinary matters in which attorneys received six-month suspensions, in that the attorneys in those cases typically engaged in ethics infractions that were more serious, affected more clients, or significantly harmed

their clients; many of these cases also involved attorneys who had been disciplined in the past.

In Gruber, the attorney's misconduct led to the dismissal of five matters, one of which could not be reinstated due to the expiration of a statute of limitations; the attorney also deceived multiple clients; and the attorney had previously been censured for similar misconduct.

In Drinkwater, the attorney grossly neglected nine matters and, although we weighed his serious mental health issues and other factors in significant mitigation, we also weighed that his misconduct extended over a four-year period.

In Tyler, the attorney mishandled fewer client matters (five) than respondent and did not violate RPC 8.4(d); but, unlike respondent, he also violated RPC 8.4(c), and the Court had reprimanded him twice before for similar misconduct.

In Tunney, the attorney received a six-month retroactive suspension for mishandling just three client matters, but that suspension came on the heels of a six-month suspension for mishandling six client matters; in mitigation, however, we weighed the attorney's serious depression.

Accordingly, we determine that a three-month suspension is the baseline quantum of discipline for respondent's violations of RPC 1.1(a); RPC 1.1(b); RPC 1.3; RPC 1.4(b); RPC 1.4(c); and RPC 3.2.

The RPC 8.4(d) violation, based on respondent's failure to appear in the Smith matter, would not necessarily entail more than an admonition or merit discipline greater than the three-month suspension that is appropriate for respondent's other, more pervasive, misconduct. However, to craft the appropriate discipline in this case, we also consider aggravating and mitigating factors; and considered in this light, the RPC 8.4(d) violation in Smith takes on additional significance because it corresponds to aggravating factors stemming from the Bower and Depew matters.

Specifically, in the former, respondent's failure to provide discovery at any point and to comply with the court's order compelling discovery resulted in the unnecessary expenditure of court resources on at least one sanctions motion. In the Depew matter, respondent wasted the court's time on a pretrial conference in which he failed to provide coherent answers to the judge's questions. More generally, respondent's erratic handling of multiple scheduled court appearances, even if not always rising to the level of unethical conduct, repeatedly caused the courts unwarranted delays and uncertainty about the status of his clients' representation.

Also in aggravation, respondent failed to promptly notify the OAE of his Pennsylvania discipline, in violation of R. 1:20-13(a)(1).

In mitigation, most of respondent's unethical conduct occurred within a relatively short time – seven months – and he did not engage in this misconduct for personal gain. Further, respondent fully cooperated with the Pennsylvania disciplinary authorities. In addition, he has had no other disciplinary history in his fourteen years at the bar, although the extent of his practice in New Jersey is not clear from the record.

However, as the OAE concluded, respondent's struggles with anxiety are not documented in the record in a way that permits us to weigh them in mitigation. In disciplinary matters where attorneys have “demonstrate[d] a causal link” between their mental health diagnoses and their misconduct, we and the Court “consistently have recognized – particularly in recent matters – the mitigating effect of mental health issues[.]” In the Matter of Keith Michael McWhirk, DRB 21-027 (September 17, 2021) at 24, so ordered, 250 N.J. 176 (2022). In the instant matter, the ODC concluded (and we accept its conclusion) that respondent received medical treatment for anxiety during the relevant time period. However, respondent's mental health condition does not serve as a mitigating factor, because the record does not establish a nexus between that condition and respondent's misconduct.

On balance, we determine that the aggravating factors outweigh the mitigating factors, and that a six-month suspension is the quantum of discipline necessary to protect the public and preserve confidence in the bar.

Moreover, we require respondent to provide to the OAE, prior to reinstatement, proof of his fitness to practice law, as attested to by a medical doctor approved by the OAE.

Chair Gallipoli voted to impose a one-year suspension, with the same condition.

Members Campelo and Hoberman were absent.

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
Hon. Maurice J. Gallipoli, A.J.S.C. (Ret.),
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 Brian O. Williams
Docket No. DRB 23-016

Argued: March 16, 2023

Decided: June 1, 2023

Disposition: Six-month suspension

<i>Members</i>	Six-month suspension	One-year suspension	Absent
Gallipoli		X	
Boyer	X		
Campelo			X
Hoberman			X
Joseph	X		
Menaker	X		
Petrou	X		
Rivera	X		
Rodriguez	X		
Total:	6	1	2

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