LAWYERS PROFESSIONAL RESPONSIBILITY BOARD
PUBLIC MEETING AGENDA

December 12, 2025 – 12:30pm (in person and via Zoom) –
Minnesota Judicial Center
Lunch provided for Board members 12:00pm

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1. Approval of minutes of September 12, 2025, meeting (attachment 1).

2. Membership updates.

3. Rules committee report: Potential amendments to Rule 16, Rules on Lawyers Professional Responsibility (attachment 2).

4. Minnesota Supreme Court referral: Rule 4 (attachments 3 – 6).

BREAK

5. Update: working group on OLPR standard language for summary dismissals (attachment 7).

6. Director's report (attachment 8).

7. Complainant appeal statistics (attachment 9).

8. Open discussion.

9. Adjournment.

LAWYERS PROFESSIONAL RESPONSIBILITY BOARD
PUBLIC MEETING

OPEN MEETING MINUTES
September 12, 2025, 12:30 pm (In-person and via Zoom) – Minnesota Judicial Center

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Board member attendance:

- Benjamin Butler, Chair
- Daniel Cragg
- Kris Fredrick
- Michael Friedman
- Thomas Gorowsky
- Elizabeth Henderson
- Chad Hultgren
- Paul Lehman
- Frank Leo
- Kevin Magnuson
- Melissa Manderschied
- Jill Nitke-Scott
- Kristi Paulson, Vice Chair
- William Pentelovitch
- Jill Prohofsky
- Abigail Rankin
- Amy Sweasy
- Carol Washington
- Antoinette Watkins
- John Zwier

Other attendees:

- Minnesota Supreme Court liaison Justice Gordon Moore
- Susan Humiston, Director of the Office of Lawyers Professional Responsibility
- Members of the OLPR staff
- Members of the public

Approval of prior meeting minutes:
The September Meeting of the LPRB was started at 12:32pm on Friday, September 12, 2025. Chair Butler called for the approval of the previous meetings minutes with minor

corrections to the attendance list to more accurately reflect last meeting. Melissa Manderschied motioned to approve the minutes with Elizabeth Henderson seconding. The motion passed Unanimously.

Summer update: State Capitol Tour

Over summer break the LPRB elected to do some group bonding in the form of a tour of the capitol by Supreme Court Justice and court liaison for the Board, Justice Gordon Moore. Chair Butler thanked Justice Moore for his time. The tour was a huge success and led to a good deal of team bonding. Chair Butler expressed his hopes that this would continue after his time as chair.

Rules committee report: Potential amendments to Rule 16, Rules on Lawyers Professional Responsibility

Daniel Cragg spoke for the rules committee, so far, they have only met once a month ago as an exploratory meeting for Rule 16 of Lawyers Professional Responsibility. Rule 16 discusses prepetition suspension issues when substantive.

> RULE 16. TEMPORARY SUSPENSION PENDING DISCIPLINARY PROCEEDINGS
> (a) Petition for Temporary Suspension. In any case where the Director files or has filed a petition under Rule 12, if it appears that a continuation of the lawyer's authority to practice law pending final determination of the disciplinary proceeding poses a substantial threat of serious harm to the public, the Director may file with this Court a petition for suspension of the lawyer pending final determination of the disciplinary proceeding, with proof of service. The petition 20 shall set forth facts as may constitute grounds for the suspension and may be supported by a transcript of evidence taken by a Panel, court records, documents or affidavits.
> (b) Service. The Director shall cause the petition to be served upon the lawyer in the
> same manner as a petition for disciplinary action.
> (c) Answer. Within 20 days after service of the petition or such shorter time as this Court may order, the lawyer shall file in this Court an answer to the petition for temporary suspension, with proof of service. If the lawyer fails to do so within that time or any extension of time this Court may grant, the petition's allegations shall be deemed admitted and this Court may enter an order suspending the lawyer pending final determination of disciplinary proceedings. The answer may be supported by a transcript of any evidence taken by the Panel, court records, documents, or affidavits.
> (d) Hearing; Disposition. If this Court after hearing finds a continuation of the lawyer's authority to practice law poses a substantial threat of serious harm to the public, it may enter an order suspending the lawyer pending final determination of disciplinary proceedings.

(e) Interim Suspension. Upon a referee disbarment recommendation, the lawyer's authority to practice law shall be suspended pending final determination of the disciplinary proceeding, unless the referee directs otherwise or the Court orders otherwise.

The rules committee discussed potential triggers of pre-petition suspension. The question was also raised about how this information might get to the OLPR. Issues were also raised about due process and presumed innocence. The idea of using probable cause for violent crimes was floated, but as Kevin Magnuson pointed out there is not always probable cause when charges are brought.

The rules committee decided they would need to meet again to further discuss this. The committee will not meet again in September but will be meeting once a month until the end of the year.

Director Humiston was asked for her thoughts on the matter, stating this would be a major change. The Director opined that previously Minnesota has been a process driven jurisdiction throughout all stages. Most other jurisdictions automatically suspend an attorney's license upon conviction of a felony. Many other jurisdictions have pre-petition opportunities for interim suspension but they are not much around crimes and more about client/public protection. For example, North Dakota uses pre-petition suspension for lawyers who fail to show up due to substance abuse.

Director Humiston urged that if the Board was going to recommend changing the rules that it should think about the message for when and why they would want to change. The Director worried this would lead to a lot of second guessing on the OLPRs part if they should always be worrying about temporary suspension. If the rule changes, the Director wanted to know how much the Board wants to leave it broadly written. Currently, the Director felt the was clear to her in criminal cases.

Daniel Cragg suggested that perhaps the criminal rules could be amended to make surrendering a license or giving up the practice of law a condition of bail. Kevin Magnuson stated that it had been done before, with the accused attorney being directed to not take any money or represent themselves as a lawyer. Antoinette Watkins asked Director Humiston if there was any background or precedent for why pre-petition suspension was not more robustly included in Minnesota Law. Director Humiston was unaware of any specific reasons but cited other jurisdictions which only require any "serious crime," not exclusively a felony. According to the Director there is just an overabundance of due process and going the long way built into Minnesota's system.

Matthew Friedman asked how common it was for a lawyer to commit more misconduct during the investigation time and at what point intervention is necessary. Director Humiston said it was more common than one would think, citing recent cases where

attorneys would have more than a dozen cases come in during the year. When asked by Friedman to identify those times when suspension would be considered and Chair Butler asked to be walked through what is currently required by the supreme court to suspend an attorney, Director Humiston said in the 10 years she has held the position it has never been done.

2026 Meeting Dates
Chair Butler introduced the meeting dates for 2026. After confirming dates were correct Melissa Manderschied moved to pass with Antoinette Watkins seconding. The new meeting dates will be sent out as calendar invites by board admin Ava Shannon.

Update: working group on OLPR standard language for summary dismissals.
Michael Friedman spoke for his working group, which included Jill Prohofsky and Amy Sweasy. The group has been working with the OLPR on draft language. The Board's role in this is only advisory but we have an interest in the result (letters that aren't as affective lead to more appeals and make more work for the Board). The draft had been sent to Director Humiston and the OLPR right before their recent move. The work group had just received the result of those drafts and had not yet had time to fully review.

Directors Report
Complaint volume remains robust, potentially record setting. The September Bench and Bar article talks about the volume and how high it remains amongst several other jurisdictions. There is an increase in AI created complaints. The DECs are routinely declining assignments because they just do not have the staff for this number of complaints. This leads to an increased case load in-house. Summary Dismissals are up as well as a net increase of 100 cases to investigation.

The Board and OLPR are being sued in a class action lawsuit for not handling ineffective council by public defenders. The Attorney General and Director Humiston are defending. Nothing the Board needs to do for now, but to be in the know.

The public comment period has opened for public disclosure of lawyer's address and the ability to request that it be confidential. The proposed amendments would (1) allow inactive status lawyers and judges to request that their home address not be displayed in the Minnesota Attorney Registration System (MARS), and (2) detail practices prohibited while on inactive status. The petition and proposed amendments are available on the public-access site for the Minnesota Appellate Courts, under case number ADM10-8002 – Petition of the Minnesota State Board of Continuing Legal Education for Amendment of the Rules of the Supreme Court on Lawyer Registration (filed Mar. 24, 2025). The Director recognizes the security concerns people may have with the publication of addresses and encourages the Board to make a comment if they wish to.

The Minnesota State Bar is planning to petition to change the "Meredith rule," allowing attorneys to retire at any age without paying fees. The Director is in favor of this change.

The next Bench and Bar article will be on bullying in the profession. This discussion started a larger talk with the Board, with John Zwier asking how the Board members can best proceed when they are receiving repeated abuse from complainants. Chair Butler advised members to never speak directly with either the respondent or the complainant but instead to bring any concerns to the executive board. The LPRB roster is not accessible to the public and any interaction should be had through the LPRBgeneral email. Because many members had questions or similar experiences Chair Butler said next meeting there would be more dedicated time to talking about this.

The OLPR is holding their yearly seminar on October 3rd, with Thomas Gorowsky talking about trust accounting and Justice Moore also speaking.

Director Humiston also brought up the fact that since the last meeting 4 attorneys nationwide have been disbarred for murder, all in cases of domestic violence, with one lawyer being in-state.

8. Second Quarter 2025 Statistics

In the second quarter the LPRB maintained an average of 24.23 days per complaint (without investigation), with admonitions and investigations averaging at 23.27 days to complete.

9. Open discussion.

Chair Butler called for open discussion, hearing none William Pentelovitch called for adjournment with Melissa Manderschied seconding.

RULE 16. TEMPORARY SUSPENSION PENDING DISCIPLINARY PROCEEDINGS

(a) Petition for Temporary Suspension. In any case where the Director files or has filed a petition under Rule 12, if it appears that a continuation of the lawyer's authority to practice law pending final determination of the disciplinary proceeding poses a substantial threat of serious harm to the public, the Director may file with this Court a petition for suspension of the lawyer pending final determination of the disciplinary proceeding, with proof of service. The petition shall set forth facts as may constitute grounds for the suspension and may be supported by a transcript of evidence taken by a Panel, court records, documents or affidavits.

(b) Service. The Director shall cause the petition to be served upon the lawyer in the same manner as a petition for disciplinary action.

(c) Answer. Within 20 days after service of the petition or such shorter time as this Court may order, the lawyer shall file in this Court an answer to the petition for temporary suspension, with proof of service. If the lawyer fails to do so within that time or any extension of time this Court may grant, the petition's allegations shall be deemed admitted and this Court may enter an order suspending the lawyer pending final determination of disciplinary proceedings. The answer may be supported by a transcript of any evidence taken by the Panel, court records, documents, or affidavits.

(d) Hearing; Disposition. If this Court after hearing finds a continuation of the lawyer's authority to practice law poses a substantial threat of serious harm to the public, it may enter an order suspending the lawyer pending final determination of disciplinary proceedings, or imposing such other terms and conditions on the lawyer's license to practice as may be warranted. This Court may assign a single Justice to conduct an evidentiary hearing or make a reference to a Referee to resolve material factual disputes.

(e) Interim Suspension. Upon a referee disbarment recommendation, the lawyer's authority to practice law shall be suspended pending final determination of the disciplinary proceeding, unless the referee directs otherwise or the Court orders otherwise.

(f) Application for Pre-Petition Temporary Suspension. Where a judicial officer has found probable cause that a lawyer has committed a crime of such severity that the lawyer's authority to practice law prior to the filing of a petition under Rule 12 poses a substantial threat of serious harm to the public, the Director may make an ex parte application to this Court for a Temporary Suspension prior to the filing of a Rule 12 Petition. Upon finding that the Director's application meets this standard, this Court shall issue an Order to Show Cause to the lawyer why the lawyer's authority to practice law should not be temporarily suspended.

(g) Proceedings on Order to Show Cause and Pre-Petition Temporary Suspension. The Order to Show Cause issued under Rule 16(f) shall set forth a date, time, and location for a hearing before this Court. After affording the lawyer an opportunity to be heard, this Court shall decide whether the lawyer's authority to practice law should be temporarily suspended during the pendency of the Director's Investigation, Panel Proceedings, and until this Court rules on a Petition under Rule 16(a), or may impose such other terms and conditions on the lawyer's license to practice as may be warranted.. This Court may assign a single Justice to conduct an evidentiary hearing or make a reference to a Referee to resolve material factual disputes.

(h) Application to Vacate Pre-Petition Temporary Suspension. A lawyer whose authority to practice law has been suspended under Rule 16(g), may move this Court to vacate the Pre-Petition Temporary Suspension on the following grounds:

1. The Director has determined that discipline is not warranted or has issued a private admonition with respect to the conduct that was the subject of the Rule 16(f) Application.

2. The Director fails to file a Petition under Rule 16(a) within seven days after the filing of a Petition under Rule 12.

3. The circumstances giving rise to the Pre-Petition Temporary Suspension have changed such that good cause exists to vacate.

STATE OF MINNESOTA

IN SUPREME COURT

ADM10-8005

IN RE PROPOSED AMENDMENTS TO MINNESOTA RULES OF PROFESSIONAL CONDUCT

O R D E R

Rule 4 of the Minnesota Rules of Professional Conduct governs transactions with persons other than clients. Rule 4.2 specifically concerns communication with a person represented by counsel and provides: "In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order." As we have identified, several jurisdictions, along with a 2022 advisory opinion from the American Bar Association, have interpreted this language to mean that the non-contact rule applies to self-represented attorneys. *In re Jensen*, 12 N.W.3d 731, 741 n.8 (Minn. 2024) (compiling citations). We have also noted, however, that "[w]e have not addressed whether the no-contact rule applies to *self-represented* attorneys." *Id.*

This court will benefit from consideration by the Lawyers Professional Responsibility Board as to whether Rule 4.2 in particular, and Rule 4 more generally, should be amended to clearly allow or clearly prohibit a self-represented lawyer to communicate directly with other represented parties.

Based on all of the files, records, and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. Consideration of amendments to Rule 4 of the Minnesota Rules of Professional Conduct is referred to the Lawyers Professional Responsibility Board.

2. The board must file its report and any amendment recommendations on or before January 29, 2027.

Dated: October 17, 2025

BY THE COURT:

Natalie E. Hudson

Natalie E. Hudson
Chief Justice

STATE OF MINNESOTA

IN SUPREME COURT

A24-0113

Original Jurisdiction

Per Curiam
Took no part, Gaïtas, J.

In re Petition for Disciplinary Action against
R. James Jensen, Jr., a Minnesota Attorney,
Registration No. 0164409.

Filed: October 23, 2024
Office of Appellate Courts

Susan M. Humiston, Director, Office of Lawyers Professional Responsibility, Saint Paul, Minnesota, for petitioner.

R. James Jensen, Jr., Roseville, Minnesota, pro se.

S Y L L A B U S

Disbarment is appropriate reciprocal discipline where an attorney disobeyed many court orders, made misrepresentations to a tribunal, filed numerous frivolous motions and appeals, engaged in dishonest conduct, and was disbarred in another jurisdiction for that misconduct.

Disbarred.

O P I N I O N

PER CURIAM.

The Director of the Office of Lawyers Professional Responsibility (the Director) filed a petition for reciprocal discipline against R. James Jensen, Jr. upon learning that he had been disbarred in Washington state in 2018. *See In re Jensen* (*Jensen IV*), 430 P.3d 262, 273 (Wash. 2018). The Washington Supreme Court disbarred Jensen for conduct including violating court orders, engaging in frivolous litigation, making misrepresentations to multiple courts, and contacting opposing parties he knew to be represented by counsel. The misconduct did not involve his representation of clients but arose out of personal legal matters—his divorce and related property disputes. *Id.* Jensen has a considerable disciplinary history based on similar misconduct in representing clients, including a reprimand, an admonition, and an indefinite suspension. We conclude that disbarment is an appropriate sanction.

FACTS

Jensen was admitted to practice law in Minnesota in May 1985. We publicly reprimanded him in 1991, *In re Jensen (Jensen I)*, 468 N.W.2d 541, 546 (Minn. 1991); admonished him in 1995, *Appeal of Admonition Regarding A.M.E. (Jensen II)*, 533 N.W.2d 849, 851 (Minn. 1995); and indefinitely suspended him for a minimum of 18 months in 1996. *In re Jensen* (*Jensen III*), 542 N.W.2d 627, 634 (Minn. 1996). His past misconduct included disobeying court orders and violating procedural rules of appeal, *Jensen I*, 468 N.W.2d at 544–45, as well as asserting frivolous claims, refusing to make

court-ordered payments, and making misrepresentations to judicial officers. *Jensen III*, 542 N.W.2d at 634.

We reinstated Jensen to practice law in Minnesota in 1999. *In re Jensen*, 593 N.W.2d 240, 241 (Minn. 1999) (order). In 2003, Jensen was administratively suspended in Minnesota for nonpayment of annual registration fees. There is no evidence that he has represented any client as a Minnesota attorney since the 1996 suspension. In 2007, he moved to Washington state, where he was admitted to practice in 2008.

In 2018, the Washington Supreme Court disbarred Jensen. *Jensen IV*, 430 P.3d at 273. "Unless we determine otherwise, a final determination in another jurisdiction that a lawyer has committed misconduct conclusively establishes that misconduct for purposes of our reciprocal discipline proceeding." *In re Wolff*, 810 N.W.2d 312, 316 (Minn. 2012); *see* Rule 12(d), Rules on Lawyers Professional Responsibility (RLPR). Aside from his claims discussed below—that imposition of reciprocal discipline would be "unfair," "unjust," and "substantially different from discipline warranted in Minnesota"—Jensen failed to provide any reason to not find conclusive the Washington Supreme Court's final determination that he engaged in the misconduct at issue. As a result, we treat the findings from the Washington proceeding as conclusive. The findings by the Washington Supreme Court are set forth below.

The Mukilteo House

In 2013, Jensen's wife, Therese, who was suffering from severe multiple sclerosis, filed for divorce. Jensen and Therese owned a home in Mukilteo, Washington, which Therese wanted to sell as part of the dissolution proceedings. On December 24, 2013, she

secured a court order to control and list the house for sale. She contacted a real estate agent, L.F., to help sell the house.

In January 2014, Jensen placed a "for sale by owner" sign on the front lawn. He refused L.F.'s request to remove his sign. When workers later came to install L.F.'s "for sale" sign, Jensen tore the post out of the ground. He also placed a note on the front door which stated, "Buyer Beware Title is unlikely to be cleared for A sale – call [Jensen's phone number]." On January 22, 2014, Jensen sent an email to L.F. and to Therese's attorney telling them that they could not sell the home.

On February 10, 2014, a Washington superior court found that Jensen had "obstruct[ed] the listing and sale" of the house and ordered him to "fully cooperate with the sale . . . up to [the] point of signing closing document[s]." At the hearing, he agreed to cooperate. The next day, Jensen filed a motion with the court in which he claimed that he had "made no efforts of any kind" to obstruct Therese's sale of the home. On February 12, 2014, the court was informed that Jensen's "for sale by owner" sign was still on the lawn.

Therese received a written offer on the house, but on February 14, Jensen phoned the buyer's agent and said that he intended to block the sale by refusing to sign sale documents. He then offered to sign the documents, but only if the buyer agreed to secretly pay him an extra $50,000 outside the sale and escrow process. The agent refused.

The court approved the pending sale of the house; in response, Jensen filed several motions with the court and the Washington State Court of Appeals. The court of appeals found for Therese and awarded her attorney fees. Jensen still refused to sign the documents

and the buyer backed out of the sale. The stress of these events exacerbated Therese's multiple sclerosis symptoms.

A second buyer made an offer on the home and Jensen advised that he would not obstruct this sale. He conveyed the property to Therese by quitclaim deed but misspelled his name on the deed. He then refused to correct this misspelling and threatened litigation against the title company if it closed on the sale. The superior court ordered Jensen to cooperate in the finalization of all sale documents, but he refused and the court sanctioned him. Therese eventually convinced a second title company to close the sale with the existing quitclaim deed, but only after she agreed to indemnify the title company. Jensen then wrote letters to the buyers and their mortgage company claiming that the sale was void and that he might still own the house.

The court eventually concluded that Jensen was a vexatious litigant and required him to post a $10,000 bond before filing any additional pleadings in that court.

The Savage Property

Prior to their marriage dissolution, Jensen and Therese jointly owned stock in Apollo Land Company (Apollo) whose sole asset was a parcel of land in Savage, Minnesota. In 2014, Jensen returned to Minnesota and changed the mailing address for Apollo to his home in Minnesota so that property tax notices were sent there. In May 2014, the Savage property was sold to the State to pay delinquent real property taxes and Jensen and Therese signed an agreement awarding all stock in the business to Jensen. In August,

Jensen registered a new company, the M.J. Scott Company, with the State of Minnesota, and in September, that company purchased the Savage property for $500 or less.

In late September 2014, Jensen filed a signed declaration with the superior court in Washington stating that Therese had lost the property by failing to pay property taxes and that this rendered worthless the Apollo stock that had been transferred to him. He sought $150,000 for the lost value of the company. He did not disclose that the tax delinquency notices were sent to him (not Therese) nor that he had purchased the property for $500 or less. Counsel for Therese discovered these facts and informed the court. The court denied Jensen compensation for the alleged loss of the Savage property.

Continued Litigation

Jensen and Therese owned other property in Minnesota, some with Therese's brother, J.B. During litigation over these properties, Therese and J.B. were each represented by counsel, but Jensen wrote repeated letters and emails to the parties directly, copying their attorneys on the messages. Jensen sent threats to J.B. and Therese, saying J.B. would go to jail and that, if Jensen was disbarred, Therese's alimony would be lowered. He also referred to opposing counsel as "a shill" and "dirtball scum."

Jensen continued to litigate in Minnesota. In April 2015, the district court in Anoka County granted Therese and J.B.'s motion for sanctions against Jensen, finding that he had made misrepresentations of fact and acted in a "vexatious and oppressive manner." In June, it imposed $20,747.50 in sanctions against Jensen. Later that month, the court ordered Jensen to stop contacting opposing parties and found that Jensen had repeatedly brought motions with misrepresentations of fact and little or no basis in law.

The Washington Disciplinary Proceedings

The Washington State Bar Association (WSBA) charged Jensen with six counts of violating rules of professional conduct. *Jensen IV*, 430 P.3d at 266. During discovery, Jensen moved to serve interrogatories and document production requests on Therese's attorney so that he could gather evidence of damages Therese suffered and attorneys' fees she had paid. The hearing officer denied this request. Jensen told the disciplinary body that he would not attend the disciplinary hearing—in violation of Washington Rules for the Enforcement of Lawyer Conduct Rule 10.13(b)—but would "save [his] arguing for the appeal to the [Washington] Supreme Court." *Jensen IV*, 430 P.3d at 267.

The hearing officer found that the WSBA proved all six counts by a preponderance of the evidence and found that there were several aggravating factors and no mitigating factors. He recommended disbarment and the WSBA Disciplinary Board unanimously adopted that recommendation. The Supreme Court of Washington agreed and disbarred Jensen. *Jensen IV*, 430 P.3d at 273. The court required, as a condition to be reinstated to the Washington bar, that Jensen pay all judgments owed to J.B., Therese, and the Therese Brown Jensen Trust (the Trust).[1] The Director filed a petition for disciplinary action seeking reciprocal discipline in response to Jensen's disbarment in Washington.

ANALYSIS

Rule 12(d), RLPR, provides that the Director, upon learning that a lawyer has been publicly disciplined in another jurisdiction, may file a petition for reciprocal disciplinary

[1] The record does not explain Jensen's interactions with the Trust and does not include details of any judgments he owes to the Trust.

action in this court. This allows for a more streamlined process by bypassing the hearing process before a Minnesota referee. We may impose discipline identical to that imposed in the other jurisdiction "unless it appears that discipline procedures in the other jurisdiction were unfair, or the imposition of the same discipline would be unjust or substantially different from discipline warranted in Minnesota." Rule 12(d), RLPR. In other words, there are three grounds—aside from our discretion—to not impose reciprocal discipline: unfair proceedings, identical discipline would be unjust, or the discipline warranted in Minnesota would be substantially different than that imposed by the other jurisdiction. Jensen raises all three arguments and we address them in turn.

A.

We will not impose reciprocal discipline if the proceedings in the other jurisdiction were unfair. *See, e.g.*, *In re Koss*, 572 N.W.2d 276, 278 (Minn. 1997) (refusing to impose reciprocal discipline where the other jurisdiction imposed discipline without a hearing and without considering mitigating circumstances). A jurisdiction's disciplinary procedures are fair if they are consistent with the principles of fundamental fairness and due process. *Wolff*, 810 N.W.2d at 316. To determine the fairness of disciplinary proceedings in another jurisdiction, "we review the underlying record to see if the attorney received notice of the proceedings and the allegations against him, and had the opportunity to respond to those

allegations and offer evidence of mitigating circumstances." *In re Overboe*, 867 N.W.2d 482, 486 (Minn. 2015).

Jensen offers two reasons that the Washington disciplinary proceedings were unfair.[2] Both fail. First, Jensen argues that he was unfairly denied the opportunity to serve interrogatories on a third party to learn of "damages that were being suffered by" Therese and fees she had paid to her attorney. This information is not relevant to Jensen's conduct or to mitigating or aggravating circumstances and he admitted as much at oral argument. Because he was not prejudiced by lack of that discovery, his first unfairness argument fails. *See Overboe*, 867 N.W.2d at 486 (noting that a delay in North Dakota's disciplinary proceedings did not "destroy the fundamental fairness of the entire process" because the attorney failed to prove he was prejudiced by the delay).

Second, Jensen argues that he was denied access to privileged information in his WSBA disciplinary file. The Washington Supreme Court rejected this contention because there was no record support for his claim that he was not allowed to access the file.[3] *Jensen IV*, 430 P.3d at 272. Jensen could have testified at his hearing to create such a

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[2] Jensen raises a related argument, asserting that his former brother-in-law, J.B., has been exercising a nefarious influence over courts in Minnesota and in Washington. Jensen claims that "[s]omething was wrong with the court[s]" because they "uniformly always rule for" J.B. and claims that the Washington disbarment order was actually written by J.B. We do not credit these arguments because they lack record support.

[3] In fact, the court order that Jensen submitted with his supplemental brief stated that "Disciplinary Counsel has already provided substantial documentation and discovery to [Jensen] . . . in excess of 1000 pages."

record but he willfully chose not to attend. Because this argument lacks record support, it fails. *See Lindgren v. City of Crystal*, 204 N.W.2d 444, 446 (Minn. 1973).

B.

Jensen next argues that it would be unjust to impose reciprocal discipline because "all of the facts relative to this matter occurred almost 10 years ago . . . and [he] is no longer under the pressure of sending four children to college while caring for a profoundly handicapped wife." His first argument—that reciprocal discipline is inappropriate because of the passage of time—is unpersuasive. The fact that reciprocal discipline is imposed long after the misconduct does not render the discipline "unjust" unless the lawyer can identify specific prejudice related to the delay. *In re Sklar*, 929 N.W.2d 384, 390 (Minn. 2019). No such prejudice has been identified here.[4]

Jensen's second argument—that the facts that led to his misconduct have changed—is similarly unpersuasive. In *In re Otis*, 582 N.W.2d 561 (Minn. 1998), we held that imposition of reciprocal discipline would be unjust because, by the time reciprocal discipline was sought, the underlying cause of the misconduct had been addressed.[5] In that case, a lawyer licensed in New Hampshire and Minnesota was disbarred by the New

[4] Moreover, much of this time elapsed because Jensen was disbarred in Washington in 2018 and the Director only learned of this disbarment in 2023. Jensen should not be allowed to benefit from his failure to notify OLPR of discipline in another jurisdiction. *Cf. Sklar*, 929 N.W.2d at 390 (rejecting an attorney's argument that a 10-year delay in imposing reciprocal discipline was unjust where the delay was largely "because of [the lawyer's] own appeals").

[5] Changed factual circumstances may not be the only grounds for considering disciplinary proceedings "unjust," but it is the only argument (aside from length of time elapsed) raised by Jensen.

Hampshire Supreme Court for improper sexual behavior toward clients. *Id.* at 561–62. Four years later, the Director learned of the disbarment and sought reciprocal discipline under Rule 12(d), RLPR. *Otis*, 582 N.W.2d at 562, 563. Otis introduced evidence that his sexual behavior was the result of a seizure disorder, that he sought medical help for the seizure disorder, and that he had the seizure disorder under control through medication. *Id.* at 562, 564. He had not committed any similar conduct after getting the seizure disorder under control, but the New Hampshire disciplinary proceeding occurred too early in his treatment for the effects of the medication on his behavior to fully manifest. *Id.* at 564.

We observed that Otis had expressed remorse and that "at this time disbarment is not necessary to protect the public." *Id.* at 565. We held that reciprocal discipline of disbarment would be unjust and instead imposed a five-year suspension. *Id.* Under *Otis*, then, imposing the same discipline in Minnesota that was imposed in another jurisdiction may be "unjust" under Rule 12(d), RLPR, if the lawyer shows that the circumstances that caused the misconduct have changed (especially if evidence of the change was not available in the earlier disciplinary proceeding) and the discipline imposed in the other jurisdiction is no longer necessary to protect the public.

In this case, however, there is no evidence that the underlying causes of Jensen's misconduct have changed. Jensen suggests that his previous misconduct was due in part to the stress of "sending four children to college while caring for a profoundly handicapped wife." This argument fails for two reasons. First, it would be inappropriate to excuse Jensen's obstructionist behavior during dissolution proceedings against his severely handicapped wife because he was "caring for" her. Second, the stress of caring for loved

ones was not the cause of Jensen's misconduct. Jensen was not disciplined for missed hearings or filing deadlines—things that *might* be excusable if an attorney's home life became chaotic. Rather, his misconduct involved disobeying court orders, lying to a tribunal, and engaging in frivolous and vexatious litigation—all things that he was sanctioned for when he practiced law in Minnesota in the 1990s. In other words, Jensen does not address the root cause of his misconduct: his own inability to follow court orders and assume responsibility for his actions. As a result, it would not be unjust to impose reciprocal discipline.

C.

Jensen lastly argues that we would impose "substantially different" discipline for this misconduct in original disciplinary proceedings in Minnesota. He argues that we would not impose *any* discipline for his misconduct because (1) he was within his rights to block the sale of the Mukilteo house, and (2) his conduct did not involve representation of a client. In addition, he argues that, even if we would impose some discipline for his misconduct, we would not disbar him. We address these arguments in turn.

1.

Jensen argues that his obstructionist behavior during the divorce was acceptable because he "had every right to refuse to give away his property." But crucially, attorneys have an ethical obligation to obey court orders.[6] When Jensen disagreed with a trial court

[6] Jensen does not explicitly raise the argument before us, but the Washington court construed his argument as one that his actions were justified by a "good faith" belief that the law was on his side. Minnesota has a similar rule based on good faith. Minn. R. Prof. Conduct 8.4 cmt. 8 ("A lawyer may refuse to comply with an obligation imposed by law

order, he was entitled to appeal—an option he exercised at great length. But once a court has adjudicated a dispute and appeals have been exhausted, attorneys are expected to abide by the result. Attorneys, as officers of the court, have special obligations to conduct themselves with candor before courts and obey court orders. Simply put, Jensen was required to obey court orders and willfully failed to do so.

2.

Jensen also argues that reciprocal discipline is not warranted because his misconduct did not involve representation of a client.[7] In fact, we have meted out considerable discipline against attorneys even for misconduct not involving clients. *See, e.g.*, *In re Ulanowski*, 800 N.W.2d 785, 797, 804 (Minn. 2011) (suspending a lawyer for one year as a result of misconduct including disobeying court rules and filing frivolous motions in his own divorce proceeding); *In re Crabtree*, 916 N.W.2d 869, 870 (Minn. 2018) (order)

upon a good faith belief that no valid obligation exists."). Jensen cannot avoid the consequences for his misconduct by asserting a good-faith defense, however, where he has continually failed "to acknowledge directly on-point contrary authorities, even after courts have brought them to his attention." *Jensen IV*, 430 P.3d at 269; *see also In re Stanbury*, 561 N.W.2d 507, 511 (Minn. 1997) (holding that an attorney who had failed to pay debts could not avail himself of the good-faith defense "[a]fter final judgment and exhaustion of his legal appeals"), *reinstatement granted*, 562 N.W.2d 685 (Minn. 1997).

[7] Similarly, Jensen claims that "[n]o client has ever complained about [him] in any court, nor has [he] ever been accused of taking any money, of neglecting a client, or of any other misconduct involving a client." This is false. His previous reprimand and suspension were the result of misconduct involving clients, including mishandling client funds. *See generally Jensen I*, 468 N.W.2d 541; *Jensen III*, 542 N.W.2d 627.

(suspending an attorney for nine months because of, among other things, misleading conduct in his personal bankruptcy proceeding).

Notably, we have also disbarred attorneys whose misconduct arose solely in situations where the lawyers represented themselves. *See In re Graham*, 503 N.W.2d 476, 478, 480 (Minn. 1993) (disbarring an attorney for failure to file income taxes, filing a fabricated document in his own marriage dissolution proceeding, and providing false testimony and fabricated documents in his personal bankruptcy); *In re Hansmeier*, 942 N.W.2d 167, 169, 175 (Minn. 2020) (disbarring an attorney for fraudulent conduct during his personal bankruptcy proceedings). In sum, the fact that no client was harmed does not allow an attorney to escape discipline; even an attorney representing himself is capable of inflicting great harm on the legal profession and the broader public.

3.

Having determined that we would impose *some* discipline for Jensen's conduct, we now consider whether discipline *substantially different* than that imposed by the Washington Supreme Court is warranted in Minnesota. Reciprocal discipline is inappropriate if "substantially different" discipline is warranted in Minnesota for the misconduct at issue. Rule 12(d), RLPR. This does not mean that we may only impose reciprocal discipline if we would impose discipline identical to that imposed in the other jurisdiction. *See Overboe*, 867 N.W.2d at 487 (noting that the question is "not whether we might have imposed different discipline had [the lawyer's] disciplinary proceedings originated in Minnesota, but rather whether the discipline imposed by [the other jurisdiction] is unjust or substantially different from discipline warranted in Minnesota")

(citation omitted) (internal quotation marks omitted); *Wolff*, 810 N.W.2d at 317 (noting that reciprocal discipline is appropriate "only if *similar* discipline would be warranted in Minnesota" (emphasis added)). Rather, the word "substantial" must carry some meaning. Thus, Jensen must show not only that disbarment is outside the range of discipline we would impose, but that it is substantially so.

The goal of discipline is "not to punish the attorney, but rather to protect the public, to protect the judicial system, and to deter future misconduct by the disciplined attorney as well as by other attorneys." *In re Albrecht*, 779 N.W.2d 530, 540 (Minn. 2010) (citation omitted) (internal quotation marks omitted). In determining proper discipline, we consider the nature of the misconduct, the cumulative weight of the disciplinary violations, the harm to the public, harm to the legal profession, and aggravating and mitigating factors. *In re McCloud*, 998 N.W.2d 760, 766–67 (Minn. 2023).

"[W]illful disobedience [of] a single court order may alone justify disbarment." *Sklar*, 929 N.W.2d at 389 (quoting *In re Daly*, 189 N.W.2d 176, 181 (Minn. 1971)), *reinstatement granted*, 932 N.W.2d 10 (Minn. 2019). In addition, "[m]aking false statements is misconduct of the highest order and warrants severe discipline." *In re Hawkins*, 834 N.W.2d 663, 670 (Minn. 2013) (citation omitted) (internal quotation marks omitted). This is because, as we emphasized in Jensen's previous disciplinary proceedings, candor to the courts is necessary for our system of justice, and when a lawyer lacks that "truthfulness and candor . . . courts do not hesitate to impose severe discipline." *Jensen III*, 542 N.W.2d at 634 (citation omitted).

Disbarment is not "substantially different" from the punishment we impose for misconduct like Jensen's.[8] Three cases illustrate this. In *Graham*, 503 N.W.2d at 478–79, the lawyer had a limited disciplinary history (two admonitions) and his misconduct did not involve a client—it involved his personal divorce, personal bankruptcy, and failure to file income taxes. The lawyer's misconduct included providing false testimony and fabricated

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[8] One count of Jensen's misconduct in Washington was for contacting represented persons. Minnesota Rule of Professional Conduct 4.2 provides that "*[i]n representing a client*, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter . . . ." (Emphasis added.) And comment 4 to the rule states that "[p]arties to a matter may communicate directly with each other." *Id.*, at cmt 4.

Several jurisdictions have interpreted the same language to mean that the no-contact rule applies to self-represented attorneys. *See In re Haley*, 126 P.3d 1262, 1269 (Wash. 2006); *Matter of Steele*, 181 N.E.3d 976, 980 (Ind. 2022) (collecting cases); *but see In re Benson*, 69 P.3d 544, 548 (Kan. 2003). This accords with a 2022 advisory opinion from the American Bar Association. *See* ABA Comm. on Ethics & Pro. Resp., Formal Op. 22-502 (2022) (recommending that the no-contact rule should apply to self-represented attorneys). We have not addressed whether the no-contact rule applies to *self-represented* attorneys.

We do not need to decide this issue today. For the contacts connected to litigation in Washington, we apply Washington law. *See* Minn. R. Prof. Conduct 8.5(b)(1). Under Washington law, a self-represented lawyer violates Rule 4.2 by contacting a represented party, *Haley*, 126 P.3d at 1269, so we accept that a violation of the rule occurred. Our only consideration, then, is the discipline we would impose for conduct that would constitute a violation of Rule 4.2 in Minnesota (for instance, a lawyer representing a client who communicated with a represented party). We have issued private admonitions, public reprimands, and suspensions up to 60 days for such conduct. *See In re Charges of Unprofessional Conduct in Panel File No. 41755*, 912 N.W.2d 224, 233 (Minn. 2018) (private admonition); *In re Wilson*, 746 N.W.2d 643, 644 (Minn. 2008) (public reprimand for communicating about the subject of representation in one case with a person the respondent knew to be represented by the public defender's office in another case); *In re McCormick*, 819 N.W.2d 442, 443, 445 (Minn. 2012) (60-day suspension for instructing investigator to interview anticipated witness without obtaining permission from witness's attorney), *reinstatement granted*, 822 N.W.2d 646 (Minn. 2012). Of course, this violation must be considered with all the other misconduct Jensen committed in assessing whether disbarment is substantially different than the discipline warranted in Minnesota.

documents to multiple courts. We disbarred him because of his extensive pattern of dishonesty and deceit. *Id.* at 479–80. Jensen's misconduct is slightly different—it includes failure to obey court orders and frivolous litigation, rather than fabricating documents—but both cases have at their core a lack of respect for the courts and a pattern of intentional dishonesty in a lawyer's personal matters.

Our decision in *Ulanowski*, 800 N.W.2d at 797, involved a wider array of misconduct, some in representing clients and some involving the lawyer's personal divorce. That lawyer, like Jensen, made misrepresentations to the court, filed frivolous claims, violated court rules, and harassed opposing counsel. Unlike Jensen, that lawyer also improperly threatened criminal prosecution, improperly withdrew representation, failed to communicate settlement offers to clients, and failed to cooperate in the discipline proceedings. Like Graham, Ulanowski had a minimal disciplinary history (one prior admonition). Ulanowski was disbarred. Although Ulanowski engaged in a wider array of misconduct, similar discipline is potentially warranted because, as discussed below, Jensen has a more extensive disciplinary history, including essentially identical misconduct.

Finally, our opinion in *Hansmeier*, 942 N.W.2d 167, is instructive. In *Hansmeier*, the attorney was disbarred for engaging in fraud in his personal bankruptcy. We found especially troubling the fact that—like Jensen in this case—Hansmeier had previously been suspended for making false statements to tribunals and abusing the legal process for personal gain.

Not only is Jensen's misconduct similar to these three cases, but his consistent disciplinary history and lack of remorse are problematic aggravating circumstances. We

look to disciplinary history in part to determine whether the public is likely to be put at risk if an attorney is allowed to continue practicing law. *See McCloud*, 998 N.W.2d at 769. Our concern about the risk to the public is significantly greater "when the lawyer engages in the same type of misconduct for which he has been previously disciplined." *Id.* And while "lack of remorse" should not aggravate discipline when the attorney is merely asserting a good-faith defense, that is not the case here. Jensen's refusal to accept any responsibility for his actions—whether motivated by ignorance or malice—suggests that he would pose a risk to the public if allowed to practice law.

Accordingly, we conclude that disbarment is not substantially different from the discipline that is warranted in Minnesota for Jensen's conduct.

CONCLUSION

We hold that reciprocal discipline is appropriate. We order that, upon the filing of this opinion, R. James Jensen, Jr. is disbarred from the practice of law in the State of Minnesota. Jensen must comply with Rule 26, RLPR (requiring notice to clients, opposing counsel, and tribunals), and must pay to the Director the sum of $900 in costs and disbursements pursuant to Rule 24, RLPR. Consistent with the discipline imposed by the Washington Supreme Court, Jensen will not be eligible for reinstatement to the practice of law in Minnesota until he has paid all judgments owed by him to Therese, J.B., and the Trust.

Disbarred.

GAÏTAS, J., not having been a member of this court at the time of submission, took no part in the consideration or decision of this case.

LAWYERS PROFESSIONAL RESPONSIBILITY BOARD

OPINION 25: IN RE AMERICAN BAR ASSOCIATION FORMAL OPINION 502 REGARDING COMMUNICATION WITH A REPRESENTED PERSON BY A *PRO SE* LAWYER

# # # #

On September 28, 2022, the American Bar Association issued its formal opinion 502.[1] This new ABA Opinion 502 significantly expands the scope of ABA Model Rule 4.2 by asserting that the *pro se* lawyer does represent "a client". This opinion is unusual in that it contains a dissent since this expansion of ABA Model Rule 4.2 was made with without regard to the important operative language of "In representing a client…" The instant Opinion adopts the position of the dissent in ABA Opinion 502 in order to eliminate any ambiguity in the meaning of Minnesota Rule of Professional Conduct 4.2 (MRPC 4.2)

MRPC 4.2 is a long-established a "no-contact" rule of ethics that strictly prohibits Minnesota lawyers from contacting represented clients on any extant legal issue in which those clients have retained legal representation.

More specifically, MRPC 4.2 provides that "*In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has consent of the other lawyer or is authorized to do so by law or court order*."

[1] The full ABA Opinion 502 is found at: https://www.americanbar.org/news/abanews/aba-news-archives/2022/09/aba-formal-opinion-502

MRPC 4.2 has long served the overriding, critical interests of eliminating improper overreach with less sophisticated clients, interfering in other lawyers' relationships with their clients, and from eliciting uncounseled disclosure of protected information.

ABA Opinion 502 provides that *pro se* lawyers are now also subject to the Rule 4.2, notwithstanding the fact that the *pro se* attorney is not representing an actual third-party client as directly contemplated by Model Rule 4.2. In expanding the reach of 4.2 to *pro se* attorneys ABA Opinion 502 recites the same policy rationale underlying the original ABA Model Rule 4.2: eliminating overreach, interfering with another attorney's relationship with his or her client, and eliciting uncounseled disclosures.

The dissent in ABA Opinion in no way disputes these important, common-sense policy prerogatives that promulgate the proper functioning of Minnesota's legal system. Indeed, as a general matter, the Minnesota Rules of Professional Conduct have traditionally hewed closed to the carefully developed ABA Model Rules. However, in this instance, the LPRB believes the dissent in ABA Opinion 502 is persuasive.

The LPRB agrees with the dissent because both ABA Model Rule 4.2 and MRPC 4.2 are premised on the antecedent language of "*In representing a client,…"*As the dissent succinctly asserts, the *pro se* attorney is simply not representing a client as the term "client" is typically understood.

As a practical matter and under common understanding, a "client" is typically known as "a person who employs or retains an attorney, or counsellor, to appear for him [her] in courts, advise, assist, and defend him in legal proceedings, as to act for him in

any legal proceedings, and to act for him in any legal business. It should include one who disclosed confidential matters to attorney while seeking professional aid, whether the attorney was hired or not."[2]

Dated: July 28, 2023

/s/ *Benjamin J. Butler*

BENJAMIN J. BUTLER
CHAIR, LAWYERS PROFESSIONAL
RESPONSIBILITY BOARD

[2] *Black's Law Dictionary*, 5th Ed. (West Publishing, 1979). The MRPC does not otherwise define "client."

AMERICAN BAR ASSOCIATION
STANDING COMMITTEE ON ETHICS AND PROFESSIONAL RESPONSIBILITY

Formal Opinion 502 **September 28, 2022**

Communication with a Represented Person by a Pro Se Lawyer

Under Model Rule 4.2,[1] *if a person is represented in a matter, lawyers for others in the matter may not communicate with that represented person about the subject of the representation but instead must communicate about the matter through the person's lawyer, unless the communication is authorized by law or court order or consented to by the person's lawyer.*

When a lawyer is self-representing, i.e., pro se, that lawyer may wish to communicate directly with another represented person about the subject of the representation and may believe that, because they are not representing another in the matter, the prohibition of Model Rule 4.2 does not apply. In fact, both the language of the Rule and its established purposes support the conclusion that the Rule applies to a pro se lawyer because pro se individuals represent themselves and lawyers are no exception to this principle.

Accordingly, unless the pro se lawyer has the consent of the represented person's lawyer or is authorized by law or court order to communicate directly with the other represented person about the subject of the representation, such communication is prohibited. In this context, if direct pro se lawyer-to-represented person communication about the subject of the representation is desired, the pro se lawyer and counsel for the represented person should reach advance agreement on the permissibility and scope of any direct communications.

I. Introduction

Model Rule 4.2, Communication with Person Represented by Counsel, is commonly known as the "no-contact" or "anticontact" rule.[2] It has been part of the ABA Model Rules of Professional

[1] This opinion is based on the ABA Model Rules of Professional Conduct as amended by the ABA House of Delegates through 2022. The laws, court rules, regulations, rules of professional conduct, and opinions promulgated in individual jurisdictions are controlling.

[2] ELLEN J. BENNETT & HELEN W. GUNNARSON, ANNOTATED MODEL RULES OF PROFESSIONAL CONDUCT 454 (9th ed. 2019).

Conduct since their 1983 inception in largely its present form.[3] The rule is "universally followed" in American jurisdictions.[4] It provides as follows:

> In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or court order.

Viewed broadly, the rule requires that a lawyer's communications about a legal matter be routed through a represented person's lawyer; direct communication with the represented person about the subject of the representation is prohibited unless the lawyer has the consent of the represented person's lawyer or is authorized to engage in the communication by law or a court order. The rule "contributes to the proper functioning of the legal system" by preventing lawyers from overreaching, from interfering in other lawyers' relationships with their clients, and from eliciting protected information via "uncounselled disclosure."[5]

When a lawyer engages in self-representation in a legal matter in which that lawyer is personally involved, in other words, when a lawyer is acting pro se,[6] application of Model Rule 4.2 is less straightforward. Such a lawyer might not appear to be "representing a client" in the matter because the lawyer is acting solely on the lawyer's own behalf, i.e., "without a lawyer."[7] Moreover, the commentary to Rule 4.2 specifically states that "Parties to a matter may communicate directly with

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[3] In 1995, an amendment proposed by the ABA Standing Committee on Ethics and Professional Responsibility changed the term "party" to "person" in the text of the rule and revised the Comment. In 2002, amendments proposed by the ABA Ethics 2000 Commission added a reference to "court order" in the text of the rule and revised the Comment. *See* ART GARWIN, A LEGISLATIVE HISTORY: THE DEVELOPMENT OF THE ABA MODEL RULES OF PROFESSIONAL CONDUCT, 1982-2013, 558-66 (2013). Model Rule 4.2 can be traced back to Canon 9 of the 1908 ABA Canons of Professional Ethics, which stated that "[a] lawyer should not in any way communicate upon the subject of controversy with a party represented by counsel; much less should he undertake to negotiate or compromise the matter with him, but should deal only with his counsel." The concept carried forward into the 1969 ABA Model Code of Professional Responsibility, DR 7-104(A)(1), which provided that a lawyer should not "communicate . . . on the subject of the representation with a party he knows to be represented by a lawyer in that matter unless he has the prior consent of the lawyer representing such other party or is authorized by law to do so." *See* ABA Comm. on Ethics & Prof'l Responsibility, Formal Op. 95-396, at 3-4 (1995) (recounting long history of anti-contact rule); Geoffrey C. Hazard, Jr. & Dana Remus Irwin, *Toward A Revised 4.2 No-Contact Rule*, 60 HASTINGS L.J. 797, 799 (2009).

[4] RESTATEMENT (THIRD) OF THE LAW GOVERNING LAWYERS §99 cmt. b (2000) [hereinafter RESTATEMENT THIRD].

[5] MODEL RULES OF PROF'L CONDUCT R. 4.2 cmt. [1]; ABA Comm. on Ethics & Prof'l Responsibility, Formal Op. 95-396 (1995) ("the anti-contact rules provide protection of the represented person against overreaching by adverse counsel, safeguard the client-lawyer relationship from interference by adverse counsel, and reduce the likelihood that clients will disclose privileged or other information that might harm their interests"). *See also* RESTATEMENT THIRD, *supra* note 4 (purpose is to "protect against overreaching and deception of nonclients," protect "the relationship between the represented nonclient and that person's lawyer" and "assure [] the confidentiality of the nonclient's communications with the lawyer").

[6] Pro se is defined as "For oneself; on one's own behalf; without a lawyer." BLACK'S LAW DICTIONARY (11th ed. 2019); *see also* definition of propria persona as "In his own person." *Id.*

[7] Carl A. Pierce, *Variations on A Basic Theme: Revisiting the ABA's Revision of Model Rule 4.2 (Part II)*, 70 TENN. L. REV. 321, 325 (2003) ("On its face, the reference in the Rule to a lawyer 'representing a client' can be read to suggest a negative inference that it does not apply to communication by a lawyer who is acting pro se, or is represented by another lawyer, in a matter in which she is interested.").

each other . . . ."[8] However, a pro se lawyer *is* representing a client. Pro se individuals represent themselves and lawyers are no exception to this principle.[9]

This opinion analyzes applicability of Model Rule 4.2 and the rationale for the anticontact rule in the context of a lawyer engaged in self-representation. The opinion also provides guidance on the advisability in these situations of reaching advance agreement on the permissibility and scope of any direct pro se lawyer-to-represented person communications.[10]

II. ANALYSIS

Although the general prohibition of Model Rule 4.2 is ubiquitous in U.S. jurisdictions, as applied to pro se lawyers the scope of the rule is less clear.[11] Interpretation of the Rule in this circumstance involves consideration of both its plain language and policy purposes.

The language in the Rule that is primarily at issue in this analysis is its first clause: "*In representing a client*, a lawyer shall not . . . ."[12] The key evils intended to be managed by Model Rule 4.2 are (1) overreaching and deception; (2) interference with the integrity of the client-lawyer relationship; and (3) elicitation of uncounselled disclosures, including inappropriate acquisition of confidential lawyer-client communications.[13] In the context of pro se lawyers, balanced against these policy goals is the principle that, as a general proposition, parties to a matter may communicate directly with each other.[14]

Yet, both the language of the Model Rule and its purpose lead to the conclusion that the no-contact rule applies to pro se lawyers. Pro se lawyers represent themselves as "a client," and direct pro se lawyer-to-represented person communication in such circumstances can result in a substantial risk of overreaching, disruption of the represented person's client-lawyer relationship, and acquisition of uncounselled disclosures. That risk outweighs the sometimes-salutary benefit of direct communication. That said, it is important to remember that Model Rule 4.2 applies only when a communication is "about the subject of the representation," i.e., the Rule is matter specific, and a lawyer may speak with another represented person about matters that do not constitute the subject

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[8] MODEL RULES OF PROF'L CONDUCT R. 4.2 cmt. [4].

[9] *See* RONALD D. ROTUNDA & JOHN S. DZIENKOWSKI, LEGAL ETHICS – THE LAWYER'S DESKBOOK ON PROFESSIONAL RESPONSIBILITY § 4.2-5 (2021-2022 ed.) ("when a lawyer represents himself pro se, Rule 4.2 can be interpreted to prohibit the lawyer-party from communicating directly with an opposing represented party"); *In re* Haley, 156 Wash. 2d 324, 338, 126 P.3d 1262, 1269 (2006) ("we hold that a lawyer acting pro se is 'representing a client' for purposes of RPC 4.2(a)").

[10] This opinion does not address the related question of applicability of Rule 4.2 when a lawyer is represented by another lawyer and the represented lawyer wishes to communicate with another represented person about the matter.

[11] Samuel J. Levine, *The Law and the "Spirit of the Law,"* 2015 Prof. Law. 1, 17 (2015) (noting the Model Rules do not expressly address a case in which a lawyer is proceeding as a pro se party to a matter) [hereinafter *Spirit of the Law*]; Margaret Raymond, *Professional Responsibility for the Pro Se Attorney*, 1 ST. MARY'S J. LEGAL MAL. & ETHICS 2, 37 (2011) (issue of whether a lawyer who is pro se is constrained by the no-contact rule when the opposing party is represented by counsel was not explicitly addressed in Model Rule 4.2).

[12] MODEL RULES OF PROF'L CONDUCT R. 4.2 (emphasis added).

[13] *See* MODEL RULES OF PROF'L CONDUCT R. 4.2 cmt. [1]; RESTATEMENT THIRD, *supra* note 4.

[14] MODEL RULES OF PROF'L CONDUCT R. 4.2 cmt. [4]. *See also* ABA Comm. on Ethics & Prof'l Responsibility, Formal Op. 92-362 (1992) (noting that Rule 4.2's prohibition on the lawyer does not purport to govern communications by the lawyer's client and observing that in some circumstances a lawyer is obligated to explain to the client the freedom to communicate with an opposing party).

of the representation. *See* Model Rules R. 4.2, cmt. [4] ("This Rule does not prohibit communication with a represented person, or an employee or agent of such a person, concerning matters outside the representation.").[15]

A. Model Rule 4.2 and Pro Se Lawyers

Application of the Rule 4.2 anticontact principle to pro se lawyers is a well-documented ethical dilemma. There are decades worth of disciplinary cases,[16] civil cases,[17] and ethics opinions[18] concluding that a lawyer acting in a pro se capacity may not communicate directly with a represented adversary or other represented person about the subject of the representation without the consent of that person's lawyer, unless the communication is authorized by law or court order.[19] These authorities reason that a pro se lawyer is "representing a client" for purposes of Model Rule 4.2, and that the policy underlying the prohibition makes it clear that such communications are "ripe with potential for overreaching and exploitation,"[20] and that "the integrity of the relationship between the represented person and counsel is not entitled to less protection merely because the lawyer is appearing pro se."[21]

Viewed in this light, it is not possible for a pro se lawyer to "take off the lawyer hat" and navigate around Rule 4.2 by communicating solely as a client. Consequently, the proposition, set forth in Comment [4] to Model Rule 4.2, that "[p]arties to a matter may communicate directly with each

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[15] Note, however, that perspectives can differ in this context about whether a lawyer's effort to communicate with a represented person is beyond the scope of the rule. *See In re* Steele, 181 N.E.3d 976 (Ind. 2022) (rejecting respondent's contention that an email was not "about the subject of the representation" but rather "spoke only of matters involving friendship," a contention that was belied both by the language of the email itself, which thrice explicitly requested that the adverse party bypass their lawyer, and by the context in which it was sent, after two weeks of unsuccessful discussions with opposing counsel and the filing of a lawsuit).

[16] *In re* Steele, 181 N.E.3d 976 (Ind. 2022); The Florida Bar v. Faro, Report of Referee, Florida Bar File 2014-70, 913 (11J) (July 24, 2017), *available at* https://lsg.floridabar.org/dasset/DIVADM/ME/MPDisAct.nsf/DISACTVIEW/68D12AE245D19BFB852582AA000A78F3/$FILE/_461.PDF, aff'd as modified, Case No. SC16-1408, 2018 WL 4691179 (Fla. Sept. 28, 2018); *In re* Hodge, 407 P.3d 613 (Kan. 2017); Medina County Bar Association v. Cameron, 958 N.E.2d 138 (Ohio 2011); *In re* Lucas,789 N.W.2d 73 (N.D. 2010); *In re* Haley, 126 P.3d 1262 (Wash. 2006); *In re* Schaefer, 25 P.3d 191 (Nev. 2001); Vickery v. Comm'n for Lawyer Discipline, 5 S.W.3d 241 (Tex. Ct. App. 1999); Office of Disciplinary Counsel v. Donnell, 684 N.E.2d 36 (Ohio 1997); Runsvold v. Idaho State Bar, 925 P.2d 1118 (Idaho 1996); *In re* Smith, 861 P.2d 1013 (Or. 1993) (application to corporate representation)*; In re* Segall, 509 N.E.2d 988 (Ill. 1987) (application to corporate representation).

[17] Fichelson v. Skorupa, 13 Mass. L. Rptr. 458 (Mass. Super. Ct. July 31, 2001) (citing ANNOTATED MODEL RULES OF PROFESSIONAL CONDUCT (4th ed.)); Sandstrom v. Sandstrom, 880 P.2d 103 (Wyo. 1993).

[18] Ala. State Bar Op. RO-85-52 (1985); Alaska Bar Ass'n Op. 95-7 (1995); D.C. Bar Op. 258 (1995); Haw. Disciplinary Bd. Op. 44 (2003); Mass. Bar Ass'n Op. 97-1 (1997); State Bar of Mich. Op. CI-1206 (1988); State Bar of Nev. Standing Comm. On Ethics & Prof 'l Responsibility, Formal Op. 8 (1987); N.Y. City Bar, Formal Op. 2011-01 (2011); Va. State Bar Op. 1527 (1993) (application to corporate representation); Va. State Bar Op. 1890 (2020).

[19] Oregon has adopted a modified version of Model Rule 4.2 to address this issue. Or. Rules of Prof'l Conduct R. 4.2 ("In representing a client or the lawyer's own interests, a lawyer shall not communicate or cause another to communicate on the subject of the representation with a person the lawyer knows to be represented by a lawyer on that subject . . . .").

[20] The Florida Bar v. Faro, Report of Referee, Florida Bar File 2014-70, 913 (11J), at 10 (July 24, 2017), https://lsg.floridabar.org/dasset/DIVADM/ME/MPDisAct.nsf/DISACTVIEW/68D12AE245D19BFB852582AA000A78F3/$FILE/_461.PDF, aff'd as modified, Case No. SC16-1408, 2018 WL 4691179 (Fla. Sept. 28, 2018).

[21] *In re* Schaefer, 25 P.3d 191, 199 (Nev. 2001).

other"[22] does not apply to pro se lawyers. This proposition recognizes that, in general, the rules of professional conduct establish limits on lawyer behavior, not that of their clients.[23]

The first clause of Model Rule 4.2— "*In representing a client*, a lawyer shall not . . . ."[24]—may be seen as creating an ambiguity as applied to lawyers representing themselves. The conclusion of many jurisdictions is more persuasive and consistent with the purposes of Model Rule 4.2.[25] A pro se lawyer is self-representing, i.e., "representing a client" for purposes of Model Rule 4.2. The risk in this situation of overreaching, disruption of the represented person's client-lawyer relationship, and acquisition of uncounselled disclosures, is acute, outweighing the potential benefit of direct client-to-client communication.[26] Accordingly, unless a pro se lawyer has the consent of the other represented person's lawyer or is authorized by law or court order to communicate directly with the other represented person about the subject of the representation, such communication is prohibited.[27]

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[22] MODEL RULES OF PROF'L CONDUCT R. 4.2 cmt. [4]; ABA Comm. on Ethics & Prof'l Responsibility, Formal Op. 11-461 (2011) ("Even though parties to a matter are represented by counsel, they have the right to communicate directly with each other.").

[23] ABA Comm. on Ethics & Prof'l Responsibility, Formal Op. 92-362 (1992) (noting that Model Rule 4.2's prohibition on the lawyer does not purport to govern communications by the lawyer's client); RONALD D. ROTUNDA & JOHN S. DZIENKOWSKI, LEGAL ETHICS – THE LAWYER'S DESKBOOK ON PROFESSIONAL RESPONSIBILITY § 4.2-5 (2021-2022 ed.) ("The rule governs lawyer, not their clients . . . ."). It is well established, however, that a lawyer cannot direct client-to-client communication as a way of evading Model Rule 4.2's prohibition. *See* ABA Comm. on Ethics & Prof'l Responsibility, Formal Op. 11-461 (2011) (when advising a client about direct client-to-client communication, the line between permissible advice and impermissible assistance "must be drawn on the basis of whether the lawyer's assistance is an attempt to circumvent the basic purpose of Rule 4.2"). In the pro se lawyer situation, it is not feasible to parse the distinction between a lawyer acting as a lawyer and a lawyer acting as a client.

[24] MODEL RULES OF PROF'L CONDUCT R. 4.2 (emphasis added).

[25] *See, e.g.*, Md. Bar Ass'n Ethics Comm., *Can Pro Se Lawyer Speak with A Represented Party over the Objection of the Party's Lawyer?*, MD. B.J., Sept./Oct. 2006, at 57, 59 ("We believe the opinions that prohibit a lawyer from having contact with a represented party opponent to be the most persuasive."). We recognize that a handful of authorities, including the Restatement of the Law Governing Lawyers, have come to a different conclusion. *See* RESTATEMENT THIRD, *supra* note 4, cmt. e, at 73 ("[a] lawyer representing his or her own interests pro se may communicate with an opposing represented non-client on the same basis as any other principals."). The Reporter's Note, however, recognizes that "The position of the ABA ethics committee is probably contrary to that in the Section and Comment . . . ." *Id.* Reporter's Note on Illustration 3 (citing ABA Comm. on Ethics & Prof'l Responsibility, Informal Op. 982 (1967)). *See also In re* Benson, 275 Kan. 913, 918, 69 P.3d 544, 548 (2003); Texas Ethics Comm'n Advisory Op. 653 (Jan. 2016); Cal. Rules of Prof'l Conduct R. 4.2, cmt. 3 ("The rule also does not prohibit a lawyer who is a party to a legal matter from communicating on his or her own behalf with a represented person* in that matter."). *Cf.* N.Y. Rules of Prof'l Conduct R. 4.2(c) ("A lawyer who is acting pro se or is represented by counsel in a matter is subject to paragraph (a), but may communicate with a represented person, unless otherwise prohibited by law and unless the represented person is not legally competent, provided the lawyer or the lawyer's counsel gives reasonable advance notice to the represented person's counsel that such communications will be taking place.").

[26] *See generally Spirit of the Law*, *supra* note 11 ("The methodologies courts have employed to expand the scope of the no-contact rule to include pro se lawyers exemplify the potential relevance of a spirt of the law approach for the interpretation of ethics codes."). Recognizing the significance of Rule 4.2's underlying public policy, an Illinois appellate court upheld application of Rule 4.2 to a non-lawyer pro se plaintiff in a civil case. *See* Zemater v. Village of Waterman, 157 N.E.3d 1069, 1074 (Ill. App. 2020) ("Protecting defendant under these circumstances also furthered public policy regarding the confidential and fiduciary nature of the attorney-client relationship.").

[27] This conclusion is consistent with this Committee's 1967 analysis of Canon 9 of the former Canons of Professional Ethics. *See* ABA Comm. on Ethics & Prof'l Responsibility, Informal Op. 982 (1967) (attorney who is a

B. Obtaining Consent for Client-to-Client Communication

In certain situations, otherwise prohibited client-to-client communications involving a pro se lawyer may be beneficial.[28] If a pro se lawyer wishes in good faith to communicate with another represented person about the subject of the representation, that lawyer should contact the represented person's counsel and seek to obtain consent, providing an opportunity for that lawyer to object, consent, or consent by agreement to conditions under which such communications are to take place. If a lawyer receives such a request from a pro se lawyer, it is prudent to discuss with the client in advance the advisability of such communication, along with the risks and benefits of such communication.[29] In some circumstances it may be appropriate to advise the client not to communicate with the pro se lawyer.

Although a lawyer's decision to consent to a pro se lawyer's communication with the lawyer's client is within the lawyer's discretion and will depend on the circumstances, there are certain situations in which direct communication between a pro se lawyer and the represented person are likely necessary or appropriate such that consenting to the communication makes sense.

Conversely, consenting to a communication where the pro se lawyer appears to be overreaching for a strategic advantage—such as seeking the communication for a concession to an extension of time to produce documents, renegotiating terms of an agreed-upon contract, or calling to elicit disclosures—is not advisable.

Advance agreements between counsel for the represented person and the pro se lawyer are important to avoid disputes about compliance and ensure no disruption of Model Rule 4.2's protections. Thus, the agreement should be clear about the scope of any direct pro se lawyer-to-represented person communications. It would be prudent to memorialize the agreement in writing.

III. CONCLUSION

Under Model Rule 4.2, in representing a client, a lawyer may not communicate with a person the lawyer knows is represented by counsel about the subject of the representation, unless that person's counsel has consented to the communication, or the communication is authorized by law or court order. When a lawyer is participating in a matter pro se, that lawyer is engaged in self-representation and is therefore subject to Model Rule 4.2's prohibition.

DISSENT

I must respectfully dissent from the conclusion of the well-written majority opinion because I cannot agree that "both the language of the Model Rule and its purpose lead to the conclusion that the no-contact rule applies to pro se lawyers." While the *purpose* of the rule would clearly be

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defendant in a case may not settle the case directly with the plaintiff who is represented by counsel without the knowledge of the plaintiff's counsel).

[28] *See* Att'y Grievance Comm'n of Maryland v. Trye, 444 Md. 201, 221, 118 A.3d 980, 991 (2015) (noting that "direct communication between the principals—leaving the lawyers out of the room—is sometimes the path to settlement of a dispute").

[29] *See* ABA Comm. on Ethics & Prof'l Responsibility, Formal Op. 92-362 (1992) (in some circumstances a lawyer is obligated to explain to the client the freedom to communicate with an opposing party).

served by extending it to self-represented lawyers, its language clearly prohibits such application. Again, Model Rule 4.2 states:

> *In representing a client*, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or court order. [Emphasis added.]

Our majority opinion thoughtfully and candidly discusses the split of authority interpreting the rule. It is not uncommon for ethics committees to weigh in when there is such a split. But it is, I hope, unusual for a committee to nullify plain language through interpretation, especially when the committee has jurisdiction to propose rule amendments.

The interpretation of our majority opinion and the ethics and discipline opinions cited therein depend upon the conclusion that, "A pro se lawyer is self-representing, i.e., 'representing a client' for purposes of Model Rule 4.2." Majority Opinion, at p. 5. This logic provides the rationale for cases holding that the rule applies to pro se lawyers.[1] The number of opinions following this approach is not convincing if the analysis is not persuasive; error compounded is still error.

Applying Rule 4.2 to pro se lawyers is supported by compelling policy arguments. It is not the result I object to, it is the mode of rule construction that I cannot endorse. Self-representation is simply not "representing a client," nor will an average or even sophisticated reader of these words equate the two situations. See *In re Haley*, 126 P.3d 1262, 1267, 1272 (Wash. 2006) (majority and concurring opinions referencing definitions and authorities). Rather, this is an "ingenious bit of legal fiction." *Haley*, at p. 1272 (Sanders, J., concurring). Further, this approach to construing the rule's language renders the phrase "in representing a client" surplusage, contrary to a basic canon of construction.[2]

It is also simply wrong to perpetuate language that *was* clear but has been made misleading by opinions effectively reading that language out of the rule. When an attorney consults the rule, it is highly unlikely that the phrase "in representing a client" will be considered to include self-representation. If the attorney goes further and consults Comment [4], the Comment will assure the attorney that, "Parties to a matter may communicate directly with each other." Given this apparent clarity, what will tip off the attorney that further research is required? The lesson here must be that nothing is clear. Clear text cannot be relied upon but may only be understood by reading ethics opinions and discipline decisions. Does the text mean what it actually says, as it

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[1] *See, e.g., In re* Haley, 126 P.3d 1262 (Wash. 2006) (forthrightly summarizing authorities and all of the reasons one might think the rule means what it says, but noting that jurisdictions considering the question "have generally concluded that the policies underlying the rule are better served by extending the restriction to lawyers acting pro se"). *See also* Runsvold v. Idaho State Bar, 129 Idaho 419, 421, 925 P.2d 1118, 1120 (1996) ("We thus construe the phrase of Rule 4.2, 'in representing a client' to include the situation in which an attorney is acting pro se because this interpretation better effectuates the purpose of Rule 4.2.").

[2] *See* "Surplusage canon," BLACK'S LAW DICTIONARY (11th ed. 2019) ("if possible, every word and every provision in a legal instrument is to be given effect"), citing ANTONIN SCALIA & BRYAN A. GARNER, READING LAW: THE INTERPRETATION OF LEGAL TEXTS 174 (2012) ("it is no more the court's function to revise by subtraction than by addition").

does in Connecticut, Kansas, and Texas?[3] Or, does it mean what we wish it said, as several other states have declared?

Model Rule 4.2's plain language making it applicable only to lawyers who represent clients has also been recognized by the Restatement,[4] cases applying the rule prospectively because to do otherwise would amount to a deprivation of due process,[5] and by courts modifying the Model Rule to make it expressly applicable to pro se lawyers.[6]

Thoughtful commentators have identified the problems with Model Rule 4.2's language and inconsistent interpretations, and have recommended fixing the rule rather than straining to achieve its purposes when lawyers represent themselves.[7] By leaving this rule in place, we are also leaving in place a trap. The rule should be amended to achieve the result advocated for in the majority opinion.

Mark Armitage
Robinjit Eagleson

[3] *See* Pinsky v. Statewide Grievance Comm., 216 Conn. 228, 236, 578 A.2d 1075, 1079 (1990) ("plaintiff's letter was a communication between litigants and that the plaintiff had a right to make such a communication because he was not representing a client"); *In re* Benson, 275 Kan. 913, 918, 69 P.3d 544, 548 (2003) ("violation of KRPC 4.2 was not shown to have occurred, as the rule applies only to acts done '[i]n representing a client.'"); and Texas Comm. on Prof'l Ethics Op. 653 (2016) ("Under the Texas Disciplinary Rules of Professional Conduct, a lawyer who is a party in a legal matter but who does not represent any other party in the matter may communicate concerning the matter directly with a represented adverse party without the consent of the adverse party's lawyer.").

[4] RESTATEMENT (THIRD) OF THE LAW GOVERNING LAWYERS §99(1)(b), and cmt. (e) thereto ("A lawyer representing his or her own interests pro se may communicate with an opposing represented nonclient on the same basis as other principals").

[5] *See, e.g.*, *In re* Discipline of Shaeffer, 25 P.3d 191, 199-202 (Nev. 2001), and *In re* Disciplinary Proceeding Against Haley, 156 Wash. 2d 324, 1267-69; 126 P.3d 1262 (2006).

[6] *See, e.g.*, Or. Rules of Prof'l Conduct R. 4.2: "In representing a client *or the lawyer's own interests*, a lawyer shall not communicate . . ." (emphasis added).

[7] *See, e.g.*, Carl A. Pierce, *Variations on A Basic Theme: Revisiting the ABA's Revision of Model Rule 4.2 (Part II)*, 70 TENN. L. REV. 321, 324-329 (2003) (tracing the Ethics 2000 Commission's failure to address the problem pointed out by the author and others and recommending that states adopt a rule with language clearly prohibiting contact by pro se lawyers); Margaret Raymond, *Professional Responsibility for the Pro Se Attorney*, 1 ST. MARY'S J. LEGAL MAL. & ETHICS 2, 38 (2011) (recognizing the split, asserting that the rule does not answer the question and consulting the purpose should be done, but stating: "It would, of course, be optimal for rule drafters to consider explicitly whether particular rules apply to pro se lawyers."); and Geoffrey C. Hazard, Jr. & Dana Remus Irwin, *Toward A Revised 4.2 No-Contact Rule*, 60 HASTINGS L.J. 797, 831 (2009) (also recognizing this mess and concluding: "We therefore propose changing the text of the Rule from 'In representing a client, a lawyer shall not . . . .' to 'A lawyer participating in a matter shall not . . . .'").

OFFICE OF
LAWYERS PROFESSIONAL RESPONSIBILITY
MINNESOTA JUDICIAL CENTER, SUITE 105
25 REV. DR. MARTIN LUTHER KING JR. BLVD.
ST. PAUL, MINNESOTA 55155

TELEPHONE (651) 296-3952
TOLL-FREE 1-800-657-3601

FAX (651) 297-5801

August 25, 2025

Mr. or Ms. Complainant Name
101 East First Street
St. Paul, MN 55116

Re: [Complainant Name] Complaint against [Lawyer's Name]
Our File No. ######
Notice of Disposition

Dear Mr. or Ms. Complainant:

We have reviewed your complaint about [Lawyer's Name]. You allege [summary of complaint].

What We Decided

We have decided **not to investigate** your complaint.

We investigate complaints that provide us with a reasonable belief that a lawyer may have violated a professional conduct rule adopted by the Minnesota Supreme Court. After reviewing the information you provided [and any publicly available information], we have decided the complaint falls short of this.

Why We Made This Decision

(Quality of Service)

Lawyers, like other professionals, sometimes make mistakes. A lawyer might handle a matter in a way that is inadequate but not unethical. You believe your lawyer made mistakes or provided poor quality representation. Even if that is the case, most malpractice and inadequate representation claims are not handled

by this Office and are more appropriately handled by the courts. This is such a situation. You should consult with another lawyer to learn about potential legal claims you may have or a court self-help center for assistance with self-representation.

(No Reasonable Belief for Misconduct)

The information you have shared does not suggest the lawyer did anything that violated a professional conduct rule. For this reason, we will not investigate your complaint.

(Fee Dispute)

Your complaint is primarily a dispute about legal fees, such as whether you received good value for the money paid or were billed correctly. This Office typically does not investigate fee disputes because they usually do not involve conduct that violates the professional conduct rules, which we have determined is the case here.

You should consider consulting with another lawyer or a court self-help center for self-representation. [Where relevant] Also, some sections of the state bar association provide fee dispute arbitration services. To learn more about fee arbitration in your area, contact:

[insert contact]

(Parties in Dispute)

[Lying allegations—differing viewpoints]
You have complained against an opposing party's attorney. In an adversarial system of justice, lawyers are expected to zealously represent their clients. While lawyers may not make statements they know to be false or assert frivolous claims, they are allowed to rely upon information provided by their client and are expected to advocate for their client's positions. The court is in the best position to resolve disputes about the facts or law in a particular case.

[Harassing conduct]
You believe a lawyer is harassing, threatening, or trying to coerce you into doing something you don't want to do. The lawyer is not your lawyer and is advocating on behalf of a client whose interests are different than yours.

You are free to disagree and raise your concerns about the lawyer's behavior to the court. Sometimes, a lawyer's behavior goes farther than zealous advocacy allows and when that happens a professional conduct rule may be violated. Here, based on the information you have shared, it does not appear a rule has been violated, and so we will not investigate.

[Active Litigation—Deferred for Now]

This matter is in litigation because there are several disputes between the parties. The court is in the best position to resolve legal and factual disagreements. To avoid duplicating effort, this Office typically waits to investigate complaints while there is active litigation. This appears to be the appropriate course here. If the court makes findings that indicate the lawyer violated a professional conduct rule, or the litigation concludes, you may resubmit your complaint.

(Prosecutorial Discretion)

You do not agree with a prosecutor's decisions relating to a criminal matter. Prosecutors get to make their own choices about whether to charge someone with a crime, who to charge, and what crimes to charge them with. Absent evidence of a specific professional conduct rule violation, we do not review those choices.

(Inadequate Representation - Criminal Defense)

You believe your lawyer did a poor job representing you in your criminal case. The Minnesota Supreme Court has decided that complaints that an attorney did not adequately represent a client in a criminal case should be handled by the criminal courts. Unless a judge has determined that a lawyer's representation was inadequate, we typically do not investigate these claims. If you think your criminal defense lawyer was inadequate, you need to appeal your case, ask for post-conviction relief, or ask a court to look at how your lawyer did their job.

If a judge decides that your lawyer was ineffective, you can send your complaint to us again with that documentation.

(Rude Behavior)

Your complaint is about how a lawyer behaved. Lawyers sometimes engage in discourteous or impolite behavior. Being rude or having bad manners does not reflect well on the legal profession, but most of the time it does not violate a professional conduct rule. Here, based on the information you have shared, it does not appear the lawyer's behavior would violate a rule, and so we will not investigate.

(Debts)

Your complaint appears to be primarily a dispute about a lawyer's failure to pay a debt. This Office can't help you recover money. A lawyer's failure to pay debts doesn't reflect well on the profession, but most of the time a failure to pay a debt doesn't violate a professional conduct rule. A lawyer's failure to pay a judgment on a law-related debt, however, may violate a rule. If you obtain a judgment from a court on a law-related debt and the lawyer fails to pay it, you may resubmit your complaint.

(Conduct Outside the Practice of Law)

Your complaint concerns something the lawyer has done outside the practice of law. When a lawyer's actions outside the practice of law are such that they suggest the lawyer may not be fit to practice law, they may violate a professional conduct rule. Here, based on the information you provided, it does not appear that the lawyer's actions outside the practice of law would rise to such a level, so no investigation will be conducted.

(Third-party neutrals—ADR Board)

Your complaint concerns a lawyer acting as a neutral in a state court proceeding such as a mediator, arbitrator or parenting consultant. The Alternative Dispute Resolution (ADR) Ethics Board has jurisdiction over all qualified neutrals providing services in a state court matter, whether they are a lawyer or nonlawyer, and is the more appropriate forum for your complaint. For more information, or to submit a complaint, contact:

Minnesota Judicial Center, Suite #135
Alternative Dispute Resolution Program
25 Rev. Dr. Martin Luther King Jr. Blvd.

St. Paul, MN 55155
Tel: 651-297-7590
Email: adr@courts.state.mn.us
www: mncourts.gov/help-topics/alternativedisputeresolution

What You Can Do Next:

Appeal our Decision

If you believe our decision is wrong, you can appeal. Here is how:

- Write a letter to the Lawyers Professional Responsibility Board
- Explain what you believe we missed or wrongly understood
- Send it within 14 days of the date of this letter
- Email it to LPRBgeneral@courts.state.mn.us
- Or mail it to 25 Rev. Dr. Martin Luther King, Jr. Blvd., Ste 305, St. Paul, MN 55155

What Happens on Appeal

Your appeal will go to the Lawyers Professional Responsibility Board, a separate entity appointed by the Minnesota Supreme Court. The board has 14 lawyers and 9 members of the public. One board member will review your appeal using the information already in the file. The Board member can either agree with our decision not to investigate or direct us to investigate all or part of the complaint.

Important Information

We cannot give you legal advice or represent you. If you need help with your legal matter, you must hire your own lawyer or represent yourself.

We are sending a copy of this letter and your complaint to the lawyer you complained about. This is required by our procedural rules.

It is important to the legal profession that complaints made in good faith are sent to this Office. Even when we decide not to investigate, a lawyer may come to consider better ways to handle a situation and improve their practices. Thank you for allowing us to consider the issues you raised. We appreciate that you took the time to express your concerns.

OFFICE OF LAWYERS
PROFESSIONAL RESPONSIBILITY

Susan M. Humiston
Director

cc: lawyer or lawyer's counsel w. encl.

OLPR Dashboard for Court And Chair

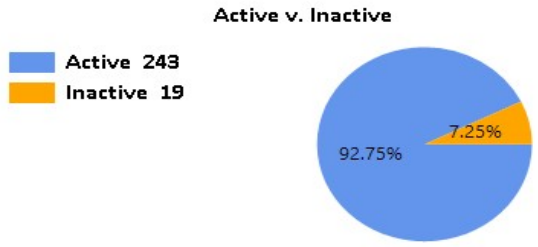
	Month Ending November 2025	Change from Previous Month	Month Ending October 2025	Month Ending November 2024
Open Files	683	24	659	599
Total Number of Lawyers	455	11	444	410
New Files YTD	1424	114	1310	1148
Closed Files YTD	1341	90	1251	1103
Closed CO12s YTD	347	24	323	223
Summary Dismissals YTD	832	55	777	589
Files Opened During November 2025	114	-26	140	112
Files Closed During November 2025	90	-57	147	97
Public Matters Pending (excluding Resignations)	39	1	38	30
Panel Matters Pending	11	-1	12	15
DEC Matters Pending	108	-5	113	101
Files on Hold	19	1	18	9
Advisory Opinion Requests YTD	1638	149	1489	1603
CLE Presentations YTD	31	0	31	30
Files Over 1 Year Old	262	14	248	224
Total Number of Lawyers	152	12	140	129
Files Pending Over 1 Year Old w/o Charges	145	11	134	164
Total Number of Lawyers	107	9	98	92

	2025 YTD	2024 YTD
Lawyers Disbarred	6	5
Lawyers Suspended	8	14
Lawyers Reprimand & Probation	1	2
Lawyers Reprimand	2	5
TOTAL PUBLIC	**17**	**26**
Private Probation Files	0	7
Admonition Files	86	80
TOTAL PRIVATE	**86**	**87**

FILES OVER 1 YEAR OLD

Year/Month	OLPR	AD	PAN	HOLD	SUP	S12C	SCUA	REIN	Total
2018-12	1								**1**
2019-04					1				**1**
2019-07	1								**1**
2019-08	1								**1**
2020-01	1								**1**
2020-02					1				**1**
2020-09	1								**1**
2021-01	1								**1**
2021-03	1			1					**2**
2021-05	3								**3**
2021-06	1				1				**2**
2021-07	1								**1**
2021-08					1				**1**
2021-09	1								**1**
2021-10					1				**1**
2021-11	2						2		**4**
2022-01	1								**1**
2022-03	1								**1**
2022-04	2				1				**3**
2022-05	2								**2**
2022-08	1				2		1		**4**
2022-09	1				1				**2**
2022-10	1			3		1			**5**
2022-11	1		1		1				**3**
2022-12	1								**1**
2023-01	1				2	1	1		**5**
2023-02	2			3			4		**9**
2023-03	3					1	2		**6**
2023-04	1		1				1		**3**
2023-05	3			1		1			**5**
2023-06	1						1		**2**
2023-07	6				1		7		**14**
2023-08	5		2				2		**9**
2023-09	1		1		3		24		**29**
2023-10	3		1	1			4	1	**10**
2023-11	3						3		**6**
2023-12	3								**3**
2024-01	2						1		**3**
2024-02	3			1			2		**6**
2024-03	5								**5**
2024-04	3			3	1		2		**9**
2024-05	4			1	1		3		**9**
2024-06	7	1							**8**
2024-07	6	1			2		2		**11**
2024-08	16						1		**17**
2024-09	7				1				**8**
2024-10	17						1		**18**
2024-11	17			1			3	1	**22**
Total	**145**	**2**	**6**	**15**	**21**	**4**	**67**	**2**	**262**

	Total	**Sup. Ct.**
Sub-total of Cases Over One Year Old	195	27
Total Cases Under Advisement	67	67
Total Cases Over One Year Old	**262**	**94**



All Pending Files as of Month Ending November 2025

Year/Month	SD	DEC	REV	OLPR	AD	PAN	HOLD	SUP	S12C	SCUA	REIN	RESG	TRUS	**Total**
2018-12				1										**1**
2019-04								1						**1**
2019-07				1										**1**
2019-08				1										**1**
2020-01				1										**1**
2020-02								1						**1**
2020-09				1										**1**
2021-01				1										**1**
2021-03				1			1							**2**
2021-05				3										**3**
2021-06				1				1						**2**
2021-07				1										**1**
2021-08								1						**1**
2021-09				1										**1**
2021-10								1						**1**
2021-11				2						2				**4**
2022-01				1										**1**
2022-03				1										**1**
2022-04				2				1						**3**
2022-05				2										**2**
2022-08				1				2		1				**4**
2022-09				1				1						**2**
2022-10				1			3		1					**5**
2022-11				1		1		1						**3**
2022-12				1										**1**
2023-01				1				2	1	1				**5**
2023-02				2			3			4				**9**
2023-03				3					1	2				**6**
2023-04				1		1				1				**3**
2023-05				3			1		1					**5**
2023-06				1						1				**2**
2023-07				6				1		7				**14**
2023-08				5		2				2				**9**
2023-09				1		1		3		24				**29**
2023-10				3		1	1			4	1			**10**
2023-11				3						3				**6**
2023-12				3										**3**
2024-01				2						1				**3**
2024-02				3			1			2				**6**
2024-03				5										**5**
2024-04				3			3	1		2				**9**
2024-05				4			1	1		3				**9**
2024-06				7	1									**8**
2024-07				6	1			2		2				**11**
2024-08				16						1				**17**
2024-09				7				1						**8**
2024-10				17						1				**18**
2024-11				17			1			3	1			**22**
2024-12				21	1								1	**23**
2025-01				23			1	1		1				**26**
2025-02				24										**24**
2025-03			2	26										**28**
2025-04				23							1			**24**
2025-05		1	3	19			2			1				**26**
2025-06		5	2	19										**26**
2025-07		10	2	25						1				**38**
2025-08		17	1	27							1			**46**
2025-09		25		15			1					1		**42**
2025-10		28		17										**45**
2025-11	31	22		14							1	4	1	**73**
Total	**31**	**108**	**10**	**398**	**3**	**6**	**19**	**22**	**4**	**70**	**5**	**5**	**2**	**683**

ALL FILES PENDING & FILES OVER 1 YR. OLD	
SD	Summary Dismissal
DEC	District Ethics Committees
REV	Being reviewed by OLPR attorney after DEC report received
OLPR	Under Investigation at Director's Office
AD	Admonition issued
ADAP	Admonition Appealed by Respondent
PROB	Probation Stipulation Issued
PAN	Charges Issued
HOLD	On Hold
SUP	Petition has been filed.
S12C	Respondent cannot be found
SCUA	Under Advisement by the Supreme Court
REIN	Reinstatement
RESG	Resignation
TRUS	Trusteeship

Hand Delivered

FILED IN DISTRICT COURT
STATE OF MINNESOTA

OCT 10 2025

State of Minnesota **District Court**

County: Ramsey	Judicial District:
	Court File Number: 62-CV-25-9077
	Case Type:

Brianna Clerk
Plaintiff

vs Office of Lawyers Professional Responsibility
Defendant

Civil Summons

This Summons is directed to (name of Defendant):
Office of Lawyers Professional Responsibility

1. **You are being sued.** The Plaintiff has started a lawsuit against you. The *Complaint* is attached to this *Summons*. Do not throw these papers away. They are official papers that start a lawsuit and affect your legal rights, even if nothing has been filed with the court and even if there is no court file number on this *Summons*.

2. **You must BOTH reply, in writing, AND get a copy of your reply to the person/business who is suing you within 21 days to protect your rights.** Your reply is called an *Answer*. Getting your reply to the Plaintiff is called service. You must serve a copy of your *Answer or Answer and Counterclaim* (Answer) within 21 days from the date you received the *Summons* and *Complaint*.

ANSWER: You can find the *Answer* form and instructions on the MN Judicial Branch website at www.mncourts.gov/forms under the "Civil" category. The instructions will explain in detail how to fill out the *Answer* form.

3. **You must respond to each claim.** The *Answer* is your written response to the Plaintiff's *Complaint*. In your *Answer* you must state whether you agree or disagree with each paragraph of the *Complaint*. If you think the Plaintiff should not be given everything they asked for in the *Complaint*, you must say that in your *Answer*.

4. SERVICE: **You may lose your case if you do not send a written response to the Plaintiff.** If you do not serve a written *Answer* within 21 days, you may lose this case by default.

You will not get to tell your side of the story. If you choose not to respond, the Plaintiff may be awarded everything they asked for in their *Complaint*. If you agree with the claims stated in the *Complaint*, you don't need to respond. A default judgment can than be entered against you for what the Plaintiff asked for in the *Complaint*.

To protect your rights, you must serve a copy of your *Answer* on the person who signed this *Summons* in person or by mail at this address:

_____.

5. Carefully read the Instructions (CIV301) for the *Answer* for your next steps.

6. **Legal Assistance.** You may wish to get legal help from an attorney. If you do not have an attorney and would like legal help:

- Visit www.mncourts.gov/selfhelp and click on the "Legal Advice Clinics" tab to get more information about legal clinics in each Minnesota county.
- Court Administration may have information about places where you can get legal assistance.

NOTE: Even if you cannot get legal help, you must still serve a written *Answer* to protect your rights or you may lose the case.

7. **Alternative Dispute Resolution (ADR).** The parties may agree to or be ordered to participate in an ADR process under Rule 114 of the Minnesota Rules of Practice. You must still serve your written *Answer*, even if you expect to use ADR.

10-10-25
Date

Brianna clerk
Signature

Name: Brianna clerk
Address: general delivery
City, State, Zip: MPLS MN 55440
Telephone: 651-932-7450
E-mail: Briannaclerk33@gmail.com

FILED IN DISTRICT COURT
STATE OF MINNESOTA

OCT 10 2025

State of Minnesota

District Court

County	Judicial District:
	Court File Number: 62-CV-25-9077
	Case Type:

Plaintiff

vs

Civil Complaint

Defendant

The Plaintiff makes the following complaints against the Defendant:

If you have more than 1 complaint against Defendant, list each complaint separately, including any supporting facts.

1. Allowing Page Narins to use false evidence in case 62-HR-CV-25-368 They let her use fake evidence in my name
2. for letting they attorney to Help brett dipman cause conflict in my realtionship,
3. for allowing Page Narins to help brett dipman claiming I have a baby with him and not Robert tea/
4. for refusing to investigate it so she can keep being a attorney and not go to jail
5. For any other relief the court feels is fair and equitable.

Based on the complaints above, Plaintiff demands the following relief:

1. $ 500 billion dollars
2.
3.

4. _____

_____

_____

Add another page if more space is needed. Do not use the back of the paper.

ACKNOWLEDGMENT

By presenting this form to the court, I certify that to the best of my knowledge, information, and belief, the following statements are true. I understand that if a statement is not true, the court can order a penalty against me (such as to pay money to the other party, pay court costs, and/or other penalties).

1. The information I included in this form is based on facts and supported by existing law.
2. I am not presenting this form for any improper purpose. I am not using this form to:
   a. Harass anyone;
   b. Cause unnecessary delay in the case; or
   c. Needlessly increase the cost of litigation.
3. No judicial officer has said I am a frivolous litigant.
4. There is no court order saying I cannot serve or file this form.
5. This form does not contain any "restricted identifiers" or confidential information as defined in Rule 11 of the General Rules of Practice (https://www.revisor.mn.gov/court_rules/gp/id/11/) or the Rules of Public Access to Records of the Judicial Branch (https://www.revisor.mn.gov/court_rules/rule/ra-toh/).
6. If I need to file "restricted identifiers," confidential information, or a confidential document, I will use Form 11.1 and/or Form 11.2, as required by Rule 11.

10-10-25
Date

Brianna clerk
Signature

Name: Brianna clerk
Address: general delivery
City, State, Zip: MPLS MN 55440
Telephone: 651-932-7450
E-mail: Briannaclerk3300gmail.com

FILED IN DISTRICT COURT
STATE OF MINNESOTA

OCT 10 2025

State of Minnesota

District Court

County of	Judicial District:
Ramsey	Court File Number: 62-CV-25-9077
	Case Type: Civil

Brianna clerk
Plaintiff (first, middle, last)

vs. office of lawyers Professional Responsibility
Defendant (first, middle, last)

Civil Cover Sheet
(Non-Family Case Type)
Minn. Gen. R. Prac. 104

Date Case Filed: _____

This civil cover sheet must be filed by the initial filing lawyer or party, if unrepresented by legal counsel, unless the court orders all parties or their legal counsel to complete this form. Once the initial civil cover sheet is filed. opposing lawyers or unrepresented parties who have not already been ordered to complete this form may submit their own cover sheet within 7 days after being served with the initial cover sheet. See Rule 104 of the General Rules of Practice for the District Courts.

If information is not known to the filing party at the time of filing, it shall be provided to the Court Administrator in writing by the filing party within 7 days of learning the information. Any party impleading additional parties shall provide the same information to the Court Administrator. The Court Administrator shall, upon receipt of the completed certificate, notify all parties or their lawyers, if represented by counsel, of the date of filing the action and the file number assigned.

ATTORNEY FOR PLAINTIFF

Attorney Name (not firm name)

Postal Address

City State Zip Code

Telephone Number

E-mail Address

Minnesota Attorney ID Number

ATTORNEY FOR DEFENDANT

Attorney Name (not firm name)

Postal Address

City State Zip Code

Telephone Number

E-mail Address

Minnesota Attorney ID Number

PLAINTIFF, Self-represented

Brianna clerk
Name

general delivery
Postal Address

mpls mn 55440
City State Zip Code

651-432-7450
Telephone Number

Briannaclerk330@gmail.com
E-mail Address

DEFENDANT, Self-represented

Name

Postal Address

City State Zip Code

Telephone Number

E-mail Address

(Attach additional sheets for additional attorneys / parties)

Note: If either Plaintiff or Defendant gets an attorney, the attorney's name, address, telephone number and attorney ID number must be given in writing to the Court Administrator immediately.

1. Provide a concise statement of the case including facts and legal basis:

2. Date Complaint was served: _____

3. For Expedited Litigation Track (ETLT) Pilot Courts only:

   a. ☐ The parties jointly and voluntarily agree that this case shall be governed by the Special Rules of ELT Pilot. Date of agreement: _____

   b. ☐ The court is requested to consider excluding this case from ELT for the following reasons:

Note: ELT is mandatory in certain cases, and where mandatory, exclusion may also be sought by timely motion under the Special Rules for ELT Pilot.

c. ☐ Anticipated number of trial witnesses: _____

d. ☐ Amount of medical expenses to date: _____

e. ☐ Amount of lost wages to date: _____

f. ☐ Identify any known subrogation interests: _____

4. For Complex Cases (See Minn. Gen. R. Prac. 146):

a. Is this case a "complex case" as defined in Rule 146? ☐ Yes ☐ No

b. State briefly the reasons for complex case treatment for this case:

_____

_____

_____

_____

c. Have the parties filed a "CCP Election" for this case as provided in Rule 146(d)?

☐ Yes ☐ No

5. Estimated discovery completion within _____ months from the date of this form.

6. Disclosure/discovery of electronically stored information discussed with other party?

☐ No ☐ Yes Date of discussion: _____

If yes, list agreements, plans and disputes:

_____

_____

_____

_____

7. Proposed trial start date: _____

8. Estimated trial time: _____ days _____ hours (estimates less than a day must be stated in hours).

9. Jury trial is:

○ waived by consent of _____ pursuant to Minn. R. Civ. P. 38.02.
(specify party)

○ requested by _____ (NOTE: Applicable fee must be enclosed)
(specify party)

10. Physical/mental/blood examination pursuant to Minn. R. Civ. P. 35 is requested.

☐ Yes ☐ No

11. Identify any party or witness who will require interpreter services, and describe the services needed (specifying language, and if known, particular dialect):

_____

12. Issues in dispute:

13. Case Type/Category: _____ _____ (NOTE: select case types from the Civil Case Type Index found at http://www.mncourts.gov/mncourtsgov/media/scao_library/documents/eFile%20Support/Handout-Case-Type-Index.pdf.)

14. Recommended Alternative Dispute Resolution (ADR) mechanism: _____

(See list of ADR processes set forth in Minn. Gen. R. Prac. 114.02(a))

Recommended ADR provider (known as a "neutral") _____

Recommended ADR completion date: _____

If applicable, reasons why ADR not appropriate for this case:

By signing below, the attorney or party submitting this form certifies that the above information is true and correct.

Submitted by:

Brianna clerk

Signature

Name: Brianna clerk

Attorney Reg. #: _____

Firm/Agency Name: _____

Street Address: general deliver

City/State/Zip Code: mpls mn 55490

Telephone: 651-432-7450

Date: 10-10-25

FILED IN DISTRICT COURT
STATE OF MINNESOTA

OCT 10 2025

State of Minnesota **District Court**

County of:	Judicial District: _____ Court File Number: 62-CV-25-9077 Case Type: _____

_____
Plaintiff / Petitioner (first, middle, last)

and

_____
Defendant / Respondent (first, middle, last)

Waiver of Service of Summons

Minn. R. Civ. P. 4.05

TO: _____
(name of plaintiff/petitioner's attorney, or unrepresented plaintiff/petitioner)

I received your request that I waive service of a summons in the following lawsuit of _____, in the District Court for
(caption of lawsuit; usually _____ vs. _____)

_____ District of Minnesota, _____ County.
(list the District: 1st - 10th) (list the county)

I have also received a copy of the complaint or petition in the lawsuit, two copies of this document (CIV022B), and a means for returning the signed waiver to you without cost to me. I agree to save the cost of service of the summons and complaint/petition in this lawsuit.

I understand that I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons. I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 is not served upon you within 60 days after _____ (date request was sent), or within 90 days after that date if the request was sent outside the United States.

10-10-25
Date

Brianna clerk
Signature

Brianna Clerk
Printed / typed name

Note: Court Form CIV022B is substantially similar to Minn. R. Civ. P. Form 22B and meets the rule requirements.

DUTY TO AVOID UNNECESSARY COSTS OF SERVICE OF SUMMONS

Rule 4 of the Minnesota Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant/respondent located in the United States who, after being notified of an action and asked by a plaintiff/petitioner located in the United States to waive service of a summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver. It is not good cause for a failure to waive service that a party believes that the complaint/petition is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property.

A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought. A defendant/respondent who waives service must within the time specified on the waiver form serve on the plaintiff/petitioner's attorney (or unrepresented plaintiff/petitioner) a response to the complaint/petition. If the answer or motion is not served within this time, a default judgment may be taken against that defendant/respondent. By waiving service, a defendant/respondent is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.

Filed in District Court
State of Minnesota
2025 SEP 30 P 1:48

State of Minnesota **District Court**

County	Judicial District:
Hennepin	Court File Number: 27-CV-25-17973
	Case Type: Civil

Robert Leaf
Plaintiff

vs Office of lawyer Professional Responsibility
Defendant

Civil Complaint

The Plaintiff makes the following complaints against the Defendant:

If you have more than 1 complaint against Defendant, list each complaint separately, including any supporting facts.

1. Allowing attorney to use false evidence with my daughter photo
2. lying saying her evidence is real
3. lying saying the attorney can do whatever she wants
4. Pain and Suffering
5. For any other relief the court feels is fair and equitable.

Based on the complaints above, Plaintiff demands the following relief:

1. $500 billion dollars
2.
3.

4. _____

_____

_____

Add another page if more space is needed. Do not use the back of the paper.

ACKNOWLEDGMENT

By presenting this form to the court, I certify that to the best of my knowledge, information, and belief, the following statements are true. I understand that if a statement is not true, the court can order a penalty against me (such as to pay money to the other party, pay court costs, and/or other penalties).

1. The information I included in this form is based on facts and supported by existing law.
2. I am not presenting this form for any improper purpose. I am not using this form to:
   a. Harass anyone;
   b. Cause unnecessary delay in the case; or
   c. Needlessly increase the cost of litigation.
3. No judicial officer has said I am a frivolous litigant.
4. There is no court order saying I cannot serve or file this form.
5. This form does not contain any "restricted identifiers" or confidential information as defined in Rule 11 of the General Rules of Practice (https://www.revisor.mn.gov/court_rules/gp/id/11/) or the Rules of Public Access to Records of the Judicial Branch (https://www.revisor.mn.gov/court_rules/rule/ra-toh/).
6. If I need to file "restricted identifiers," confidential information, or a confidential document, I will use Form 11.1 and/or Form 11.2, as required by Rule 11.

9-30-25
Date

Robert Teal
Signature

Name: Robert Teal

Address: General delivery

City, State, Zip: Mpls mn 55440

Telephone: 651-868-2572

E-mail: TealRoberto2@gmail.com

OFFICE OF
LAWYERS PROFESSIONAL RESPONSIBILITY
MINNESOTA JUDICIAL CENTER, SUITE 105
25 REV. DR. MARTIN LUTHER KING JR. BLVD.
ST. PAUL, MINNESOTA 55155

TELEPHONE (651) 296-3952
TOLL-FREE 1-800-657-3601

FAX (651) 297-5801

August 25, 2025

Mr. or Ms. Complainant Name
101 East First Street
St. Paul, MN 55116

Re: [Complainant Name] Complaint against [Lawyer's Name]
Our File No. ######
Notice of Disposition

Dear Mr. or Ms. Complainant:

We have reviewed your complaint about [Lawyer's Name]. You allege [summary of complaint].

What We Decided

We have decided **not to investigate** your complaint.

We investigate complaints that provide us with a reasonable belief that a lawyer may have violated a professional conduct rule adopted by the Minnesota Supreme Court. After reviewing the information you provided [and any publicly available information], we have decided the complaint falls short of this.

Why We Made This Decision

(Quality of Service)

Lawyers, like other professionals, sometimes make mistakes. A lawyer might handle a matter in a way that is inadequate but not unethical. You believe your lawyer made mistakes or provided poor quality representation. Even if that is

the case, most malpractice and inadequate representation claims are not handled by this Office and are more appropriately handled by the courts. This is such a situation. You should consult with another lawyer to learn about potential legal claims you may have or a court self-help center for assistance with self-representation.

(No Reasonable Belief for Misconduct)

The information you have shared does not suggest the lawyer did anything that violated a professional conduct rule. For this reason, we will not investigate your complaint.

(Fee Dispute)

Your complaint is primarily a dispute about legal fees, such as whether you received good value for the money paid or were billed correctly. This Office typically does not investigate fee disputes because they usually do not involve conduct that violates the professional conduct rules, which we have determined is the case here.

You should consider consulting with another lawyer or a court self-help center for self-representation. [Where relevant] Also, some sections of the state bar association provide fee dispute arbitration services. To learn more about fee arbitration in your area, contact:

[insert contact]

(Parties in Dispute)

[Lying allegations—differing viewpoints]
You have complained against an opposing party's attorney. In an adversarial system of justice, lawyers are expected to zealously represent their clients. While lawyers may not make statements they know to be false or assert frivolous claims, they are allowed to rely upon information provided by their client and are expected to advocate for their client's positions. The court is in the best position to resolve disputes about the facts or law in a particular case.

[Harassing conduct]

You believe a lawyer is harassing, threatening, or trying to coerce you into doing something you don't want to do. The lawyer is not your lawyer and is advocating on behalf of a client whose interests are different than yours. You are free to disagree and raise your concerns about the lawyer's behavior to the court. Sometimes, a lawyer's behavior goes farther than zealous advocacy allows and when that happens a professional conduct rule may be violated. Here, based on the information you have shared, it does not appear a rule has been violated, and so we will not investigate.

[Active Litigation—Deferred for Now]

This matter is in litigation because there are several disputes between the parties. The court is in the best position to resolve legal and factual disagreements. To avoid duplicating effort, this Office typically waits to investigate complaints while there is active litigation. This appears to be the appropriate course here. If the court makes findings that indicate the lawyer violated a professional conduct rule, or the litigation concludes, you may resubmit your complaint.

(Prosecutorial Discretion)

You do not agree with a prosecutor's decisions relating to a criminal matter. Prosecutors get to make their own choices about whether to charge someone with a crime, who to charge, and what crimes to charge them with. Absent evidence of a specific professional conduct rule violation, we do not review those choices.

(Inadequate Representation - Criminal Defense)

You believe your lawyer did a poor job representing you in your criminal case. The Minnesota Supreme Court has decided that complaints that an attorney did not adequately represent a client in a criminal case should be handled by the criminal courts. Unless a judge has determined that a lawyer's representation was inadequate, we typically do not investigate these claims. If you think your criminal defense lawyer was inadequate, you need to appeal your case, ask for post-conviction relief, or ask a court to look at how your lawyer did their job.

If a judge decides that your lawyer was ineffective, you can send your complaint to us again with that documentation.

(Rude Behavior)

Your complaint is about how a lawyer behaved. Lawyers sometimes engage in discourteous or impolite behavior. Being rude or having bad manners does not reflect well on the legal profession, but most of the time it does not violate a professional conduct rule. Here, based on the information you have shared, it does not appear the lawyer's behavior would violate a rule, and so we will not investigate.

(Debts)

Your complaint appears to be primarily a dispute about a lawyer's failure to pay a debt. This Office can't help you recover money. A lawyer's failure to pay debts doesn't reflect well on the profession, but most of the time a failure to pay a debt doesn't violate a professional conduct rule. A lawyer's failure to pay a judgment on a law-related debt, however, may violate a rule. If you obtain a judgment from a court on a law-related debt and the lawyer fails to pay it, you may resubmit your complaint.

(Conduct Outside the Practice of Law)

Your complaint concerns something the lawyer has done outside the practice of law. When a lawyer's actions outside the practice of law are such that they suggest the lawyer may not be fit to practice law, they may violate a professional conduct rule. Here, based on the information you provided, it does not appear that the lawyer's actions outside the practice of law would rise to such a level, so no investigation will be conducted.

(Third-party neutrals—ADR Board)

Your complaint concerns a lawyer acting as a neutral in a state court proceeding such as a mediator, arbitrator or parenting consultant. The Alternative Dispute Resolution (ADR) Ethics Board has jurisdiction over all qualified neutrals providing services in a state court matter, whether they are a lawyer or

nonlawyer, and is the more appropriate forum for your complaint. For more information, or to submit a complaint, contact:

Minnesota Judicial Center, Suite #135
Alternative Dispute Resolution Program
25 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155
Tel: 651-297-7590
Email: adr@courts.state.mn.us
www: mncourts.gov/help-topics/alternativedisputeresolution

What You Can Do Next:

Appeal our Decision

If you believe our decision is wrong, you can appeal. Here is how:

- Write a letter to the Lawyers Professional Responsibility Board
- Explain what you believe we missed or wrongly understood
- Send it within 14 days of the date of this letter
- Email it to LPRBgeneral@courts.state.mn.us
- Or mail it to 25 Rev. Dr. Martin Luther King, Jr. Blvd., Ste 305, St. Paul, MN 55155

What Happens on Appeal

Your appeal will go to the Lawyers Professional Responsibility Board, a separate entity appointed by the Minnesota Supreme Court. The board has 14 lawyers and 9 members of the public. One board member will review your appeal using the information already in the file. The Board member can either agree with our decision not to investigate or direct us to investigate all or part of the complaint.

Important Information

We cannot give you legal advice or represent you. If you need help with your legal matter, you must hire your own lawyer or represent yourself.

We are sending a copy of this letter and your complaint to the lawyer you complained about. This is required by our procedural rules.

It is important to the legal profession that complaints made in good faith are sent to this Office. Even when we decide not to investigate, a lawyer may come to consider better ways to handle a situation and improve their practices. Thank you for allowing us to consider the issues you raised. We appreciate that you took the time to express your concerns.

OFFICE OF LAWYERS
PROFESSIONAL RESPONSIBILITY

Susan M. Humiston
Director

cc: lawyer or lawyer's counsel w. encl.

CALL FOR VOLUNTEERS
Consider volunteering as an ethics investigator.
Email: deccordinator@courts.state.mn.us

Complaints, complaints everywhere

BY SUSAN M. HUMISTON susan.humiston@courts.state.mn.us

SUSAN HUMISTON is the director of the Office of Lawyers Professional Responsibility and Client Security Board. Prior to her appointment, Susan worked in-house at a publicly traded company, and in private practice as a litigation attorney.

Each year on July 1 the Office of Lawyers Professional Responsibility (OLPR) and the Lawyers Professional Responsibility Board (LPRB) publish and file with the Minnesota Supreme Court an annual report on Minnesota's attorney discipline system. Most of the information in the annual reports, which can be found on our website at *www.lprb.mncourts.gov*, covers the prior calendar year, but each report also contains some information on how the current year is progressing. Notable this year was the number of complaints the Office is receiving. I recently returned from an annual conference of discipline counsel where I learned we are not alone. What is happening?

Complaint statistics from Minnesota

Through the end of June 2025, the Office received 984 new complaints, compared to 698 through the end of June 2024. This is a 41 percent increase year over year! And 2024 numbers were higher than 2023 numbers; it's a trend we have seen for the last few years. We know that people are upset and times are challenging. Does that account for the skyrocketing new filings? Is there anything else to be learned as we dig into the complaint statistics?

THROUGH THE END OF JUNE 2025, THE OFFICE RECEIVED 984 NEW COMPLAINTS, COMPARED TO 698 THROUGH THE END OF JUNE 2024. THIS IS A 41 PERCENT INCREASE YEAR OVER YEAR!

Not all complaints move forward. Sometimes we have difficulty understanding the concerns raised and we write to the complainant for more information (usually just a couple of clarifying questions). If we do not receive a response to this request for information, we will close the matter without opening a file. The lawyer who is the subject of the complaint will receive a copy of this closing letter too. (This is without prejudice to a complainant, who may still submit information or a new complaint later.) Of the 984 complaints received, a staggering 204 were closed after the complainant failed to reply to our letter or email request for information. This is almost a 100 percent increase over the same period in 2024, when 109 files were closed for lack of an initial response. This seems telling, although I'm not sure what it tells us. Perhaps complainants are angry about something that occurred but upon reflection, they are no longer angry. Or perhaps responding to a couple of questions is too hard given everything else that is going on in the complainant's life. It's strange no matter how you parse it, because these individuals have already taken the time to find us, complete a form, and often have already sent in documents as part of the complaint process.

Even with lots of closures due to lack of initial information, there are still plenty of complaints where a file is opened (780 in the first half of 2025, itself a large number). This does not mean, however, that an investigation will take place. We will review the information provided to determine whether there is a reasonable belief that misconduct may have occurred, similar to a Rule 12 dismissal standard. Historically, approximately 40 percent of new files are closed under this review; this decision can be appealed to a LPRB member.

Recently, we have been dismissing without investigation a lot more cases than normal. In 2024, 48 percent of new files were dismissed without investigation. In 2025, through June, that share is 58 percent. I'm comfortable asserting that our standard for dismissal has not changed. The same individuals are doing this work, I review many of the dismissals for consistency, and we have not seen an increase in appeal reversals, meaning of those closures that are appealed, an LPRB member concurs with the decision not to investigate.

One reasonable conclusion to be drawn is that, although more complaints are coming in, the complaints are more about general unhappiness with how a legal matter is progressing than an issue of attorney ethics. This also tells me that times are really challenging for the courts and anyone in litigation or consumer-facing areas of law. A lot of people are frustrated and unhappy and unafraid to share those feelings. Anecdotally, we are also seeing more people who are just incensed and willing to take it out on others—a sad testament to these times.

So even though complaint filings are off the charts, actionable complaints (where an investigation is commenced) have not increased as much as one might expect. But the added burden on the system is nonetheless real. It takes a lot of staff and attorney time to process and fairly evaluate such a large increase in new matters.

We write each person to explain what we are doing or not doing and why. Receiving more complaints has further meant dealing with more individuals who are challenging and upset with adverse decisions. The Board is busier with appeals as well. During the first half of 2024, 71 appeals were completed by Board members, compared to 117 during the first half of 2025. We have a thorough and deliberative process, with various double checks, to determine whether we will investigate a complaint. This process is feeling the strain (and constraining investigation time on the matters we decide to review) given the sheer volume of new complaints.

Minnesota is not alone

Earlier in the year I informally surveyed my counterparts in other jurisdictions to see if they were seeing an uptick in complaints. A few reported more complaints, but others saw complaints decreasing or remaining the same. This question was posed again at the beginning of August, when more jurisdictions reported significantly higher numbers. For example, California reported a "drastic" increase in complaints and is on track for the most ever received. Similarly, Colorado reported they are trending toward a record number of complaints after several years of steady numbers. Delaware has seen the number of complaints *double* year over year! Georgia has seen a significant increase in complaints, as have D.C., Maryland, Missouri, and Wisconsin. Although more jurisdictions reported increasing complaints, there are still many that are generally seeing business as usual. If the second half of our year is similar to the first, we are also trending toward a record number of complaints—and this after a 2024 total that had only been exceeded four times in our history.

No one had any explanation for the material uptick in complaints in some but not all jurisdictions. D.C. and Maryland make sense given all that is happening within the federal government in 2025 and the number of lawyers in those jurisdictions. But Virginia is reportedly seeing only a 10 percent increase in complaints, and they are similarly situated. Iowa, North Dakota, and Illinois are seeing no material increases, but Minnesota and Wisconsin are. Basically, no one knows what is going on and whether it will continue. We also do not know if more discipline will follow given the increase in investigations. As the year ends, disciplinary results will be an interesting number to watch.

Call for volunteers

Many of our complaints are investigated by district ethics committee (DEC) volunteers, and given the volume of complaints, it is obvious we could not do what we do without the hundreds of lawyer and public members throughout the state who assist us in managing our large case load. Last year and again this year, some of the district ethics committees have needed to decline new investigations due to a lack of capacity. While no one knows what the future will bring, I do not anticipate that complaints will materially drop off, so I would like to encourage you to consider volunteering as an ethics investigator. And, if you know of a nonlawyer who might be a good investigator (paralegals, former law enforcement personnel, and engineers or other retired professionals make excellent investigators), please send them our way as well. The rules require that 20 percent of district ethics committee volunteers be nonlawyers.

I know this is a fabulous volunteer opportunity because I volunteered for the 4th District Ethics Committee when I was in private practice. The benefits are many. You will learn the ethics rules. You will get to know dedicated and conscientious individuals who care about the legal profession and share a desire to maintain its integrity. You will be inspired to be a better lawyer, and you will not be bored. Most cases involve interesting facts and issues. Training and mentorship are provided. You do not need to be a member of the bar association to participate. If you would like to be connected to a local committee, send an email to our volunteer coordinator at *deccordinator@courts.state.mn.us.* All committees are recruiting.

Conclusion

Thank you to OLPR personnel, LPRB members, and DEC volunteers for your work this year. It's a very busy time but the quality of work remains high. Several years ago we adopted the tagline "Protecting the Public, Strengthening the Profession." It is important to have a fair and deliberative process by which individuals can raise concerns about lawyers, and to have those concerns thoughtfully considered. For whatever reason, record numbers of people are availing themselves of this process. Because we work from complaints, we cannot protect the public or profession unless matters are brought to our attention. Please consider joining us as a volunteer in this important work! ▲

Bullying in the legal profession

BY SUSAN M. HUMISTON susan.humiston@courts.state.mn.us

SUSAN HUMISTON is the director of the Office of Lawyers Professional Responsibility and Client Security Board. Prior to her appointment, Susan worked in-house at a publicly traded company, and in private practice as a litigation attorney.

October is national bullying prevention month. It is also the one-year anniversary of the publication of a study on bullying in the legal profession conducted in Illinois.* Recently I attended a presentation on this topic by Erika Harold, the executive director of the Illinois Supreme Court Commission on Professionalism. The commission sponsored the study, and its findings are eye-opening—though in many ways unsurprising.

The study sought to distinguish incivility and harassment from bullying. Incivility is rude and disrespectful behavior. Harassment is abusive conduct targeted at someone due to a protected characteristic. Bullying may include both incivility and harassment, but the study defined it as inappropriate behavior intended to intimidate, humiliate, or control the actions of another person. Thus, bullying is characterized by an intentional act that can take many forms: verbal aggression, nonverbal actions, acts of exclusion, harsh working conditions, physical harm, stalking, or other aggressive actions.

The findings

The study focused on a particular one-year window, not the whole course of a lawyer's career. The findings show bullying is pervasive. Fifteen percent of male attorneys reported experiencing bullying during the prior year, as did 38 percent of female lawyers. Lawyers with disabilities and attorneys of color experienced bullying at high rates. Thirty-eight percent of lawyers with a disability reported bullying, compared to 23 percent of lawyers without a disability. Thirty-six percent of Black attorneys from the Middle East or North Africa reported bullying; 35 percent of Black American lawyers reported bullying, compared to 23 percent of white lawyers. Hispanic and Asian lawyers reported high numbers as well, 34 and 28 percent respectively. Twenty-nine percent of gay or lesbian lawyers were bullied as compared to 25 percent of heterosexual lawyers.

Bullying was reported across age groups: 39 percent of lawyers aged 25 to 35 were bullied in the year prior to the study, with lawyers in this age group being more likely than other age groups to report acts of bullying. Although instances of bullying decreased with age, 12 percent of lawyers aged 66 to 75 reported bullying. Basically, bullying is widespread across various demographics in the legal profession.

The behavior

The seven most reported types of bullying behavior were:

- verbal intimidation, such as insults, name-calling, or shouting;
- harsh, belittling, or excessive criticism of work;
- demeaning nonverbal behaviors;
- unrealistic work demands;
- behind-the-back malicious rumors;
- improperly taking credit for work; and
- the withholding of important work information.

Lawyers also reported being subjected to cyberbullying, physical intimidation (throwing objects, invading space, and stalking), and physical contact (inappropriate touching, pushing, or shoving).

The bullies engaging in this behavior were often a lawyer external to the lawyer's workplace (33 percent) or a more senior lawyer within the organization (31 percent). A shocking 14 percent of lawyers said they were most recently bullied by a judge!

Most bullying behavior went unreported. Only 20 percent of lawyers reported the bullying to a supervisor or human resource manager. Common rationales for not reporting were concerns relating to being perceived as "weak" or a "complainer" (34 percent), fear of the bully (27 percent), anticipated inaction by organization (27 percent), and concerns about position (16 percent). A majority of people who did report the bullying rated the organization's response as insufficient or totally unsatisfactory.

Study recommendations

The study made five recommendations:

1. Legal workplaces should develop, implement, and enforce anti-bullying policies.
2. Legal workplaces should conduct training specific to their organization's anti-bullying policies and procedures to equip lawyers with tools to respond, whether they are being targeted by bullying or witnessing it.
3. Courts should enforce anti-bullying standards in courtrooms and litigation activities.
4. Bar associations should use their resources and reach to advance programs that educate members on the prevalence and impact of bullying in the legal profession.

5. Lawyers being bullied should respond in the way they feel best safeguards their rights, well-being, and career.

Other important take-aways

One of the most notable pieces of information from the study for me was how frequently bullying occurred in front of others (62 percent reported bullied with others present) but most often witnesses either ignored the behavior or did not react (72 percent). And, as the study has been rolled out in law schools in Illinois, many law students (students were not included in the study) reported that they expected bullying to be bad in the legal profession!

To address the bystander issue, the study authors created a "Bystander Tip Sheet." When you witness bullying, the tip sheet recommends that you intervene in the moment. This can include interrupting the bully. You can identify that the behavior is wrong as it is occurring ("That's not an appropriate way to talk to them") and publicly support the person who is being bullied. Next, offer support after the incident. Talk privately to the person who is being bullied to offer support. You can also consider communicating with the bully privately after the incident depending on your relationship with that person. Share that the actions made you uncomfortable and undermine both the legal profession and the organization the lawyer represents. Finally, the tip sheet recommends that you consider reporting the behavior, consistent with any policy in place, or if no policy exists, report to senior management or human resources—after taking into consideration the severity of the conduct and the wishes of the target.

Conclusion

This is a high-level summary of the study. The report includes a wealth of anecdotes and individual, anonymized responses provided by study participants that bring the behavior into sharp focus, and I commend the whole report to you. Illinois is in the process of rolling out several initiatives prompted by the study findings, including a continuing legal education course to raise awareness and specific training for judicial officers on how to effectively spot and address bullying behavior.

As is the case with incivility, the problem is larger than the rules of professional conduct, although some bullying behavior can run afoul of the ethics rules. I've been reflecting on the study findings a lot since I read the report and attended Ms. Harold's presentation. Study participants would like to see attorney discipline play a larger role in curbing bullying than it currently does (one survey participant put it succinctly: "Bullying happens because it is allowed to happen"). And I attended the presentation at a conference for discipline counsel, who reflected on how frequently lawyers attempt to bully us during investigations and prosecutions. I appreciate the work the Illinois Supreme Court has undertaken to shine a light on this issue and encourage you to join me in thinking about ways we can confront this issue together. We should not continue to be bystanders to the problem. ▲

[*] Stephanie A. Scharf & Roberta D. Liebenberg, *Bullying in the Legal Profession: A Study of Illinois Lawyers' Experiences and Recommendations for Change*, Illinois Supreme Court Commission on Professionalism (2024). *https://www.2civility.org/bullying-in-the-legal-profession*

CONFIDENTIALITY 101

BY SUSAN M. HUMISTON ✉ susan.humiston@courts.state.mn.us

SUSAN HUMISTON is the director of the Office of Lawyers Professional Responsibility and Client Security Board. Prior to her appointment, Susan worked in-house at a publicly traded company, and in private practice as a litigation attorney.

Client-lawyer relationships are fiduciary relationships built on trust. A key part of that trust relationship is maintaining client confidences. The question of when a lawyer may disclose confidential information is a popular topic on our advisory opinion hotline. It has been a few years since this column focused broadly on confidentiality,[1] so now is a good time for a refresher.

Confidential information

The first thing to know about client confidentiality is that *everything* relating to the representation of a client is confidential. This tenet comes from the rule itself—Rule 1.6(a), Minnesota Rules of Professional Conduct (MRPC)—which provides: "Except when permitted under paragraph (b), a lawyer shall not knowingly reveal information relating to the representation of a client."

Confidentiality is broader than the attorney-client statutory or common law privilege and covers all information "relating to the representation." Please pause to reflect upon the breadth of that statement. Lawyers are tasked with not revealing information relating to the representation unless an exception in Rule 1.6(b) permits disclosure. Our training tells us we must protect our client's secrets, but we also need to protect all information relating to the representation, whatever its source, and should take care to disclose only such information as permitted by the rules.

The second thing to know about client confidentiality is that there is no "public records" exception to the confidentiality rule. While there are 11 permissible disclosure situations outlined in Rule 1.6(b), none of those permissions make reference to public records. Many lawyers seem to believe that if something is public, it is not confidential. And before I became the Director, I did not have cause to contemplate this concept either. The rationale is grounded in the fiduciary nature of the relationship. Even though something might not be a secret because it's a matter of public record, the last thing many clients may wish to see is their lawyer disclosing, discussing, or using that publicly available information. Instead, to facilitate the trust relationship, the confidentiality rule expects us to treat everything with care unless it falls within a permissible disclosure exception.

Disclosure options

The confidentiality rule permits lawyers to disclose confidential information under several circumstances. You should review the permissions listed in Rule 1.6(b) and should always understand how any information you are disclosing about the representation is a permissible disclosure.

First, there are a few client-centered permissions: Rule 1.6(b)(1) permits disclosure if the client gives informed consent. Rule 1.6(b)(2) permits disclosure if the disclosure relates to something that is not privileged, is not embarrassing or detrimental to the client, is not subject to a client request to keep it secret (*i.e.*, inviolate), *and* Rule 1.6(b)(3) permits disclosure as "impliedly authorized in order to carry out the representation." These permissions allow the lawyer to use information relating to representation to advance the client's interest and the legal matter.

There has always been a tension, however, between a client's desire for their lawyer to keep secrets, on the one hand, and situations where harm to third parties or the legal profession would occur if the lawyer could not speak. Rule 1.6(b) contains several exceptions to allow lawyers to share confidential information in certain situations even if the client has not authorized the disclosure.

For example, Rule 1.6(b)(4) permits a lawyer to disclose confidential information to prevent fraud (if the lawyer's services are being used to further the fraud) or to prevent the commission of a crime, and Rule 1.6(b)(5) permits disclosure to rectify the consequences of a client's criminal or fraudulent conduct in instances where the client has used the lawyer's services to further the fraud or crime. Thus, lawyers need not stand by silently while their client plans to commit a crime or uses their lawyer's services to commit fraud against another. You may try to dissuade your client from such a course of action, but you should also disclose to your client the limits of the confidentiality obligation and that you can ethically act by disclosing information as necessary to prevent such conduct if the client persists.

Rule 1.6(b)(6) permits disclosure of confidential information if the lawyer reasonably believes the disclosure is necessary to prevent reasonably certain death or substantial bodily harm. If a lawyer reasonably believes this to be the case, the lawyer need not be silent in the face of such significant possible harm.

There are also several exceptions that allow lawyers to disclose information to seek legal advice on their ethics obligations, report misconduct, comply with law or court order, or detect and resolve conflicts. Rule 1.6(b)(7) permits disclosure of confidential information to secure legal advice about the lawyer's compliance with the ethics rules, which includes calling our Office for a confidential advisory opinion; Rule 1.6(b)(9) permits disclosure to comply with law or court order; and Rule 1.6(b)(10) permits disclosure to comply with a lawyer's duty to report the misconduct of another lawyer. Rule 1.6(b)(11) permits disclosure to detect and resolve conflicts arising from a change in employment or firm mergers, but only to the extent the revealed information would not compromise the attorney-client privilege or otherwise prejudice the client.

And there is more. Rule 1.6(b)(8), sometimes called the self-defense exception, permits disclosure where "the lawyer reasonably believes the disclosure is necessary to establish a claim or defense on behalf of the lawyer in an actual or potential controversy between the lawyer and the client, to establish a defense in a civil, criminal, or discipline proceeding against the lawyer based upon the conduct in which the client was involved, or to respond in any proceeding to allegations by the client concerning the lawyer's representation of the client."

Caution is recommended when invoking this exception, mainly because such defensive disclosures still must only occur as necessary to establish the defense, and it is always best to pause and reflect before sharing client confidences, particularly when you are doing so to respond to a client claim of misconduct or liability. Lawyers may use this provision to disclose necessary information to file a lawsuit to collect a fee, for example. Or to seek a post-relationship protective order against a client who is engaging in harassing conduct, or to defend against a malpractice claim.

Minnesota has more exceptions than are currently present in the American Bar Association's model Rule 1.6(b). I believe that in Minnesota we strike a good balance in guarding client confidences without requiring lawyers to stand silent when there are good policy reasons for limited disclosures.

Cautionary tales

Notwithstanding the number of exceptions present in Minnesota's Rule 1.6(b), lawyers are still annually disciplined for violating Rule 1.6(a)—disclosing information relating to the representation without a qualifying disclosure rule. The circumstances that most frequently give rise to violations are disclosures upon withdrawal from representation, responding to online criticisms by clients, and disclosure of information contained in public records in subsequent proceedings involving former clients. This column has covered the first[2] and second[3] of these situations in previous articles, so I would like to spend time on the third situation.

Confidentiality obligations survive the termination of the attorney-client relationship. Rule 1.9, MRPC, may allow a lawyer to be adverse to a former client but Rule 1.9(c), MRPC, always restricts the lawyer from using or revealing "information related to the representation to the disadvantage of the former client" unless a permissible exception in Rule 1.6(b) exists, or with respect to use, only "when the information has become generally known." Information is not "generally known" simply because it was discussed in open court, is available in court records, or exists in other repositories of public information. Rather, information is "generally known" when it is widely recognized by the public or members of the former client's industry, profession, or trade.[4] Thus, you might not be able to use public records information against a former client in a subsequent representation because of your ongoing obligation of confidentiality to the former client if the information related to the former representation, notwithstanding the fact that it is a matter of public record. These rules have tripped up several attorneys during this past year.

Conclusion

Confidentiality is a bedrock of the lawyer-client relationship. When you are disclosing information relating to a client representation, no matter the source of the information, be sure that you understand the exception(s) in Rule 1.6(b), MRPC, that allow you to disclose information relating to the representation. While there are several exceptions allowing disclosure, unless you are being thoughtful, you may disclose information you were obligated to keep confidential. And do not forget we are here to answer your ethics questions, including how to comply with your confidentiality obligations. We can be reached at 651-296-3952. ▲

NOTES

[1] *See e.g.*, Martin A. Cole, *Disclosing Confidential Information*, Bench & Bar of Minnesota (April 2012), republished at *lprb.mncourts.gov/articles*.

[2] Susan M. Humiston, *Withdrawing as counsel (ethically)*, Bench & Bar of Minnesota (November 2019).

[3] Patrick R. Burns, *Client confidentiality and client criticisms*, Bench & Bar of Minnesota (December 2016).

[4] American Bar Association Formal Opinion 479, *The "Generally Known" Exception to Former-Client Confidentiality* (12/15/2017).

AMERICAN BAR ASSOCIATION
STANDING COMMITTEE ON ETHICS AND PROFESSIONAL RESPONSIBILITY

Formal Opinion 518 **October 15, 2025**

A Lawyer's Duties to Avoid Misleading Communications When Acting as a Third-Party Neutral Mediator

Rule 2.4 of the ABA Model Rules of Professional Conduct addresses a lawyer's duties when acting as a third-party neutral and defines third-party neutral as a lawyer who assists two or more persons – who are not clients of the lawyer – to reach a resolution of a dispute.

Under Rule 2.4(b), a lawyer acting as a third-party neutral must inform unrepresented parties that the lawyer-mediator does not represent them. Paragraph (b) also requires the lawyer-mediator to explain the difference between the lawyer-mediator's role as a third-party neutral and the role of a lawyer representing a client in a mediation when the lawyer knows or reasonably should know that the parties do not understand the mediation process. Therefore, in most instances, unless the parties are sophisticated consumers of mediation services, the lawyer-mediator should ensure that all persons involved in the mediation understand the role of the lawyer-mediator.

Although a lawyer is not subject to many of the Model Rules when acting as a third-party neutral mediator, a lawyer-mediator is subject to Rule 8.4(c), which prohibits a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation. A lawyer-mediator may not give credence to statements the lawyer-mediator knows to be false or personally make statements that the mediator knows to be false.

I. The Lawyer-Mediator's Duties under Model Rule 2.4 When Serving as Third-Party Neutral

The Preamble to the ABA Model Rules of Professional Conduct explains that lawyers play various roles in the legal system. Their usual role is to represent clients, but one alternative is to "serve as a third-party neutral, a nonrepresentational role helping the parties to resolve a dispute or other matter."[1] Rule 2.4, titled "Lawyer Serving as Third-Party Neutral," defines a third-party neutral as a lawyer who assists two or more persons "who are not clients of the lawyer" to reach a resolution of a dispute. This differs from the lawyer's role in circumstances in which the lawyer represents one or more clients.

Most provisions of the Model Rules address a lawyer's role in representing one or more clients. Some of these govern the client-lawyer relationship. *See, e.g.*, Rules 1.1 through 1.10, 1.13, 1.14, 1.16, 2.1, and 2.3. Other Model Rules address lawyers' interactions with the tribunal, other counsel, or third parties, but all in the context of representing a client. *See, e.g.*, Rules 3.1-3.9, 4.1-4.3. None of these Model Rules applies to a lawyer-mediator. Instead, Rules 1.12 and 2.4 specifically address lawyers serving as third-party neutrals. In addition, other Model Rules apply to lawyer-mediators

[1] ABA MODEL RULES OF PROF'L CONDUCT, Preamble [3].

simply because those Model Rules govern lawyers' conduct regardless of whether the lawyer is serving in a representational role. *See, e.g.*, Model Rules 8.1-8.4.

Paragraph (b) of Rule 2.4 imposes two duties on the lawyer-mediator: to "inform unrepresented parties that the lawyer is not representing them," and "[w]hen the lawyer knows or reasonably should know that a party does not understand the lawyer's role in the matter, the lawyer shall explain the difference between the lawyer's role as a third-party neutral and a lawyer's role as one who represents a client." Particularly when a party to a mediation is unrepresented, fulfilling these duties ensures that each party to the mediation understands that the lawyer-mediator is not representing the party, is not seeking to protect the party's best interests, as would a lawyer in a legal representation, and is not assuming the duties that a lawyer would ordinarily have to a client under the Model Rules.[2]

Comment [3] to Rule 2.4 explains that lawyers serving as neutrals "may experience unique problems as a result of differences between the role of a third-party neutral and a lawyer's service as a client representative." It notes that "[f]or some parties, particularly parties who frequently use dispute-resolution processes, this information [that the lawyer does not represent anyone in the matter] will be sufficient. For others, particularly those who are using the process for the first time, more information will be required." The Comment further advises:

> Where appropriate, the lawyer should inform unrepresented parties of the important differences between the lawyer's role as third-party neutral and a lawyer's role as a client representative, including the inapplicability of the attorney-client evidentiary privilege. The extent of disclosure required under this paragraph will depend on the particular parties involved and the subject matter of the proceeding, as well as the particular features of the dispute-resolution process selected.[3]

Unless the parties are sophisticated consumers of mediation services, it is prudent for the lawyer-mediator not only to inform all parties that the lawyer-mediator does not represent them but also to afford them an opportunity to discuss what this means.

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[2] Mediation, like all alternative dispute resolution processes, is generally conducted subject to other rules and policies that may include state statutes, court rules, or procedures promulgated by the organization conducting the mediation. These other mediation rules will also inform the lawyer-mediator's obligations. *See, e.g.*, AMERICAN ARBITRATION ASSOCIATION, AMERICAN BAR ASSOCIATION & ASSOCIATION FOR CONFLICT RESOLUTION, MODEL STANDARDS OF CONDUCT FOR MEDIATORS (Sept. 2005), https://www.americanbar.org/content/dam/aba/administrative/dispute_resolution/dispute_resolution/model_standards_conduct_april2007.pdf. For example, Standard III provides: "A mediator shall avoid a conflict of interest or the appearance of a conflict of interest during and after a mediation. A conflict of interest can arise from involvement by a mediator with the subject matter of the dispute or from any relationship between a mediator and any mediation participant, whether past or present, personal or professional, that reasonably raises a question of a mediator's impartiality."

[3] The requirement that a lawyer inform persons who are not clients about the lawyer's role in a matter is not unique to Rule 2.4(b). In other contexts, lawyers have similar obligations to avoid confusion about their role. For example, Rules 4.3, 5.7(a)(2), and 1.13(f) also address a lawyer's obligation to disclose to some persons with whom the lawyer is dealing that the lawyer will not owe that person the duties imposed by the Model Rules applicable to a lawyer who is representing a client.

II. The Lawyer-Mediator's Duty to Avoid Statements that Imply that the Lawyer-Mediator is not Neutral but is Seeking to Achieve a Party's Best Interest

Under the Model Rules, a lawyer must act in the client's interest. Various provisions of the Model Rules give expression to that responsibility, however, that is not the role of a lawyer-mediator. The lawyer-mediator's role is to assist the parties in resolving their dispute, regardless of where the interest of a party may lie.

Once a lawyer-mediator explains the role of a neutral, as distinct from the role of a lawyer for one or more clients, the lawyer-mediator must not depart from that role. Specifically, the lawyer-mediator should be vigilant in conducting the mediation to avoid creating the impression that the lawyer-mediator will be providing the protections of the client-lawyer relationship. For example, if the lawyer-mediator explains that a mediator's confidentiality obligation under the applicable mediation rules,[4] the lawyer-mediator should ensure that the parties understand that the source of the obligation is not a client-lawyer relationship, and that the attorney-client privilege does not apply.

The obligation to avoid misleading the parties about the lawyer-mediator's role also means that, in conducting the mediation, the lawyer should not state that the lawyer-mediator is acting to achieve a party's best interest or that a proposed settlement is in a party's best interest. Otherwise, the party may rely on the lawyer-mediator's assurance, mistakenly believing that the lawyer-mediator is acting in the party's best interest as the party's lawyer.[5] The lawyer-mediator may, of course, provide truthful information that helps the parties to conclude for themselves, or even makes it obvious to them, whether a proposed resolution is in their best interest, given their objectives.

Likewise, if the give-and-take in a mediation includes a discussion of how the law applies to the parties' dispute, the lawyer-mediator should avoid communicating in a manner that might be taken as rendering legal advice, or otherwise suggesting to a mediation party that the lawyer-mediator's role is to protect or advance a party's legal interests or to help the party to attain a particular desired result. It is not misleading, however, to provide legal information or to discuss the parties' respective views of how a tribunal would resolve a legal or factual question.[6] A mediator may offer an opinion as to how a tribunal is likely to rule on an issue, but the lawyer-

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[4] *See, e.g.*, MODEL STANDARDS OF CONDUCT FOR MEDIATORS, *supra* note 2. For a helpful discussion of the interaction of the Model Rules with other rules applicable to mediation (which other rules are beyond the scope of this opinion), *see* John M. Barkett, *Ethics in ADR – A Sampling of Issues*, 9 AM. J. MEDIATION 9 (2016).

[5] Similarly, the Committee recently discussed the responsibility of an organization's lawyer, when interacting with the organization's individual constituents, to avoid misunderstandings about the lawyer's role. *See* ABA Comm. on Ethics and Prof'l Responsibility, Formal Op. 514 (2025).

[6] For a discussion of the distinction between legal information and legal advice (and the advisability of accompanying legal information with a statement that the legal information is general in nature and not intended as a substitute for personal legal advice), *see* ABA Comm. on Ethics and Prof'l Responsibility, Formal Op. 10-457 (2010).

mediator should not state or imply that a settlement is in the party's best interest *because* a tribunal is likely to decide adversely to the party.[7]

If a party, particularly an unrepresented party, requests that the mediator provide legal advice, the mediator should again explain the mediator's role and advise the party to seek legal advice from counsel of their choice.

III. The Lawyer-Mediator's Duty to Avoid Dishonesty, Fraud, Deceit, and Misrepresentation When Communicating with the Parties

The role of the mediator, like any third-party neutral, turns on being credibly neutral. To resolve disputes, the lawyer-mediator will be conveying information to the parties. The lawyer-mediator will often provide mediation-appropriate insights when conveying this information to help the parties evaluate whether to settle and, if so, on what terms.

At the same time, there are limits on what a lawyer-mediator may say to the parties to assist them in making this determination. Rule 8.4(c) prohibits a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation. This Model Rule applies not only when a lawyer represents a client but also to the lawyer's personal and professional conduct outside of the practice of law. Thus, notwithstanding the fact that they are not representing clients in the mediation, lawyer-mediators have an ethical duty under Rule 8.4(c) to avoid engaging in conduct that is dishonest, fraudulent, deceptive, or misleading.

This raises the question of whether a lawyer-mediator may engage in exaggeration or concealment of various kinds in an effort at persuasion. For lawyers representing parties in negotiations, untrue statements are not entirely forbidden. Rule 4.1 forbids a lawyer "[i]n the course of representing a client" from "making a false statement of material fact or law to a third person." However, Comment [2] to this rule recognizes that "[u]nder generally accepted conventions in negotiation, certain types of statements ordinarily are not taken as statements of material fact." Among the examples are statements regarding "a party's intentions as to an acceptable settlement of a claim." ABA Formal Ethics Opinion 06-439,[8] which addresses a lawyer's obligation when representing a client in a mediation (but explicitly does not address the ethical duties of a lawyer-mediator, who does not represent any party), provides further examples as follows:

> [S]tatements regarding negotiating goals or willingness to compromise, whether in the civil or criminal context, ordinarily are not considered statements of material fact within the meaning of the Rules. Thus, a lawyer may downplay a client's willingness to compromise, or present a client's bargaining position without disclosing the client's "bottom line" position, in an effort to reach a more favorable resolution. Of the same nature are overstatements or understatements of the strengths or weaknesses of a client's position in litigation or otherwise, or expressions of opinion as to the value or worth of the subject matter of the

[7] If a mediator were to provide legal advice to a party in the mediation, the mediator would risk forming a client-lawyer relationship with that party (*see, e.g.*, RESTATEMENT (THIRD) OF THE LAW GOVERNING LAWYERS §14 (2001)). Doing so is incompatible with the mediator's role as a neutral.

[8] ABA Comm. on Ethics and Prof'l Responsibility, Formal Op. 06-439 (2006).

> negotiation. Such statements generally are not considered material facts subject to Rule 4.1.

Lawyers representing negotiating parties have the same leeway to make immaterial false statements under Rule 8.4(c) as they have under Rule 4.1. (This is not to suggest that this Committee encourages doing so, but simply that the Model Rules do not forbid it.)

A lawyer-mediator does not have the same leeway as a lawyer negotiating for a client, however, because a lawyer-mediator does not represent a client in the mediation but serves as a third-party neutral under Rule 2.4. Therefore, neither Rule 4.1 nor the above-noted Comment to this rule applies to the lawyer-mediator.[9]

A mediator's statement may violate Rule 8.4(c) even if a similar statement by a lawyer representing a party in a negotiation or mediation would not, because the lawyer-mediator's statement may be taken as true and influence a party's decision. Rule 8.4(c) applies differently to lawyer-neutrals than to lawyer-advocates because their different roles create different expectations. False statements that would not be regarded as statements of "material fact" under Rule 4.1, or violate Rule 8.4(c), coming from a party's lawyer are likely to be taken at face value coming from a lawyer-mediator precisely because of the lawyer-mediator's role as a neutral.

Given the lawyer-mediator's neutrality, parties are likely to trust the lawyer-mediator to play it straight, and to not exaggerate or make false statements designed to lead the parties to an agreement. Framed differently, parties dealing with the opposing party or the opposing party's lawyer are expected to know that negotiating parties engage in "puffery" or exaggeration about certain matters, and to discount their assertions about such matters. But parties to a mediation, having been advised about the lawyer-mediator's neutral role, would have no similar reason to be on their guard when receiving communications from that individual.

Therefore, it follows that a lawyer-mediator must be both thoughtful and cautious in communicating information from one party to the other and in answering questions that may be asked about the information communicated or about the lawyer-mediator's views of the information. For example, a lawyer-mediator may not make a statement that the lawyer-mediator knows to be false that "this is the best offer the opposing party will make." The lawyer-mediator must be careful not to make misleading statements about the strength or weakness of a party's case. While a mediator may accurately convey statements from one party to another that may

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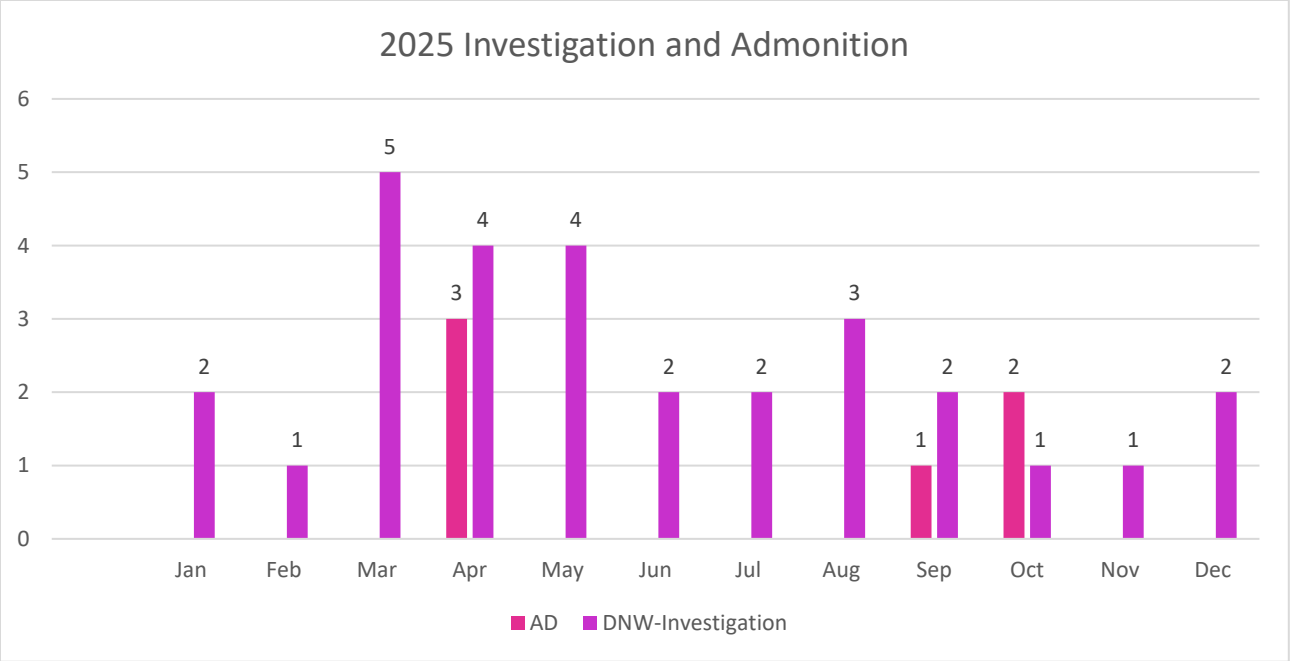
[9] ABA Formal Ethics Opinion 06-439 opined that lawyers who represent clients in a negotiation or caucused mediation may make "statements regarding a party's negotiating goals or its willingness to compromise, as well as statements that can fairly be characterized as negotiation 'puffing'" without violating Model Rule 8.4's proscription on making false or misleading statements. Formal Opinion 06-439 at footnote 19 states, "This opinion is limited to lawyers representing clients involved in caucused mediation, and does not attempt to explore issues that may be presented when a lawyer serves as a mediator and, in carrying out that role, makes a false or misleading statement of fact. A lawyer serving as a mediator is not representing a client, and is thus not subject to Rule 4.1, but may well be subject to Rule 8.4(c)." The footnote goes on to state "in our view, Rule 8.4(c) should not impose a more demanding standard of truthfulness for a lawyer when acting as a mediator than when representing a client." The lawyer-mediator may communicate statements made by the parties or their counsel as long as the lawyer-mediator makes clear the origin of such statements and that the statements do not represent an opinion of the lawyer-mediator.

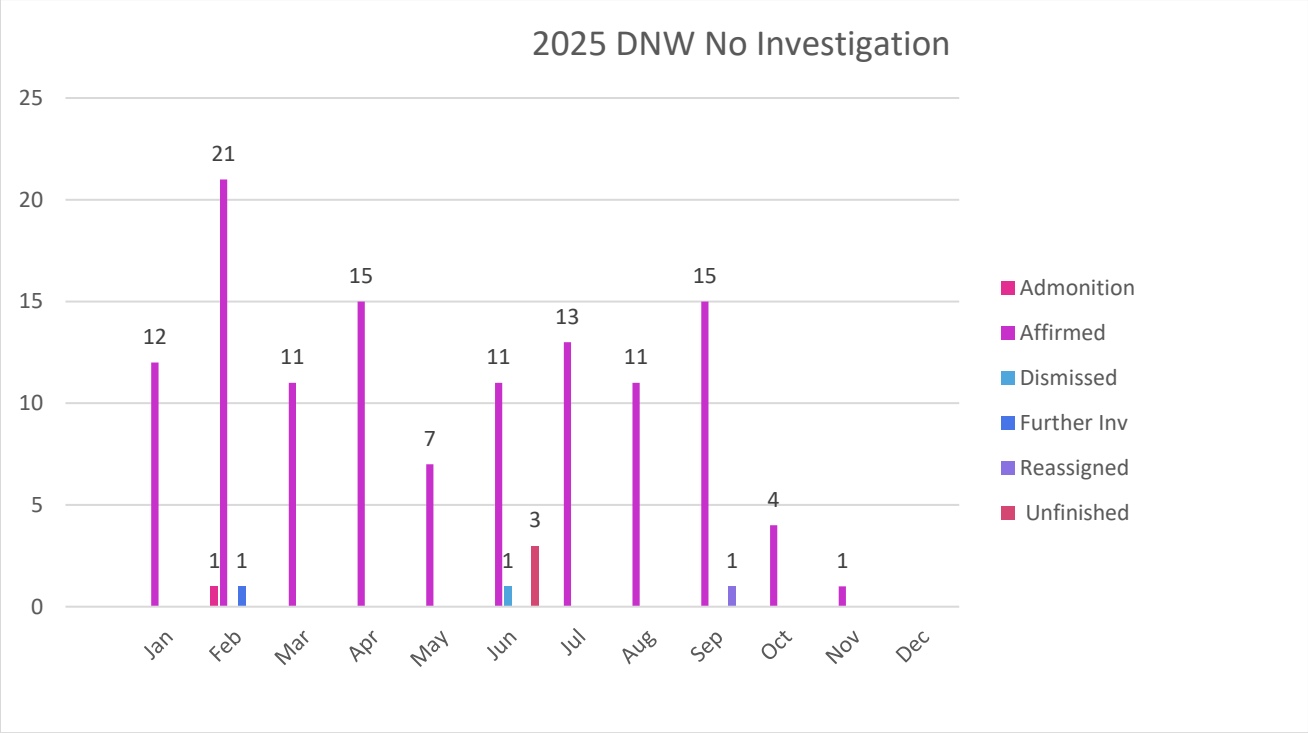
include falsehoods that are not regarded as false statements of "material fact" under Rule 4.1, the lawyer-mediator may not give credence to those statements if the mediator knows them to be false by suggesting that the lawyer-mediator credits them or by implying that the opposing party should do so. Similarly, the lawyer-mediator must be precise and avoid any inappropriate gloss in describing to one party the position that the other party is taking. For example, as noted, it is improper, if untrue, to state that "this is the best offer the opposing party will make."

IV. Conclusion

A lawyer-mediator does not represent any party to a mediation. Under Rule 2.4, lawyer-mediators must explain their role to mediation parties who are not represented or who do not appear to understand the mediator's function and, where necessary, inform all parties of the difference between the role of a mediator and that of a lawyer representing a party. Based on the guidance in Comment [3], unless the parties are sophisticated consumers of mediation services, it is prudent for the lawyer-mediator not only to inform all parties that the lawyer-mediator does not represent them but also to afford them an opportunity to discuss what this means. In addition to other rules governing the duties of a mediator, the Model Rules require the lawyer-mediator to avoid communications that are dishonest, fraudulent, deceitful, or misrepresentative in violation of Rule 8.4(c).



Average: 21 days to complete



Average: 26.765 days to complete