**IN RE: MATTER OF JANE I. COOGAN**
**BBO NO. 568705**

**COMMONWEALTH OF MASSACHUSETTS**
**BOARD OF BAR OVERSEERS**
**OF THE SUPREME JUDICIAL COURT**

BAR COUNSEL,
Petitioner

vs.

JANE I. COOGAN, ESQ.,
Respondent

B.B.O. File No. C5-22-00275777

## HEARING REPORT

On June 10, 2024, bar counsel filed a petition for discipline against the respondent, Jane I. Coogan, Esquire.

The petition charged that the respondent committed misconduct in connection with her failure to properly file a trust-related document with the Probate Court. The charged misconduct included failures of diligence and competence as well as intentional misrepresentations to cover up her misconduct. The petition charged further that, once her alleged misconduct was reported to bar counsel, the respondent lied repeatedly during her Statement under Oath (SUO) and in the course of the investigation, and knowingly submitted a fabricated document to bar counsel.

Represented by counsel, the respondent filed her answer on July 1, 2024.

The hearing was held on November 18 and 19, 2024. Thirty-four exhibits were admitted. Six witnesses testified: Anthony Mignanelli, Esq., the complainant; Katie Benoit, Operations Supervisor at the Probate and Family Court in Taunton; Juliane Clark, Esq., First Assistant Register at the Bristol County Probate and Family Court; Stephen Withers, Esq., the respondent's law partner; Maura Glynn, the respondent's sister; and the respondent. On January 27, 2025, the parties filed their proposed findings and conclusions.

## Findings and Conclusions[1]

## Hearing Committee's Unanimous Findings of Fact – Count One[2]

1. The respondent, Jane I. Coogan, Esq., has been working as an attorney since July 2008, shortly after her 2007 admission to the New Jersey bar. Tr. 1:88 (Respondent). She was later admitted to the bars of New York (2010) and Rhode Island (2010). Tr. 1:89 (Respondent).

2. After practicing out of state for some years, in 2014, the respondent returned to Massachusetts, where she had grown up, and was admitted to the bar in August of that year. Tr. 1:89 (Respondent); Ans. ¶ 2. She began working at Coogan Smith, a law firm her father started. Tr. 1:89 (Respondent). She made partner in the firm in the winter of 2016. Tr. 1:90 (Respondent). As she has done throughout her career, she currently practices in the areas of estate planning and administration and business law. Tr. 1:89-90 (Respondent).

3. Attorney Anthony Mignanelli (Mignanelli) was admitted to the Rhode Island bar in 1980. Tr. 1:21 (Mignanelli). He is also admitted to the bars of Virginia and, as of 2015, Massachusetts. Id.

4. In late December 2021, sisters Candace Stansfield and Phoebe Dedonis (the "sisters") contacted Mignanelli. Ex. 3 (005); Tr. 1:23-24 (Mignanelli). They sought his help with an estate matter. They, along with two siblings, were beneficiaries of two trusts established by their parents, the "Taveira Irrevocable Trust" and the "Taveira Irrevocable Income Trust." Each

[1] The transcript is referred to as "Tr. __: __"; the matters admitted in the answer are referred to as "Ans. ¶_"; and the hearing exhibits are referred to as "Ex. _." The matters admitted by the answer include those deemed admitted as a result of the respondent's failure to deny them in accordance with B.B.O. Rules, § 3.15(d). See Matter of Moran, 479 Mass. 1016, 1018, 34 Mass. Att'y Disc. R. 376, 379 (2018). We have considered all of the evidence, but we have not attempted to identify all evidence supporting our findings where the evidence is cumulative. We credit the testimony cited in support of our findings to the extent of the findings, and we do not credit contradictory testimony. In some instances, we have specifically indicated testimony that we do not credit.

[2] Our Hearing Committee was not unanimous. Throughout our Report, we designate which findings of fact and conclusions of law are unanimous, and which reflect the majority view. The Dissent of Regina Au ("Au Dissent"), below, sets out the dissenting member's areas of disagreements with the majority.

trust held bank accounts and real property in Massachusetts; at least one property generated rental income. Tr. 1:23-24, 26-27 (Mignanelli); Ans. ¶¶ 5, 6; Ex. 2.

5. Following their mother's death on January 4, 2021, the sisters' brother, Louis Taveira, had been appointed trustee. Ex. 25 (053), Ex. 25 ¶ XIV (074); Tr. 1:27 (Mignanelli). Louis died on March 18, 2021, having never taken control of the trust assets, and without having executed documentation showing that he had ever assumed the role of successor trustee. Ex. 25 (053); Tr. 1:27, 1:29 (Mignanelli). Under the trusts' terms, Louis's successor trustee had to be "an attorney or a financial institution with competence and expertise as trust managers." See Ex. 25, ¶ XIV (074).

6. There was "some friction in the family," and the siblings could not agree on a suitable successor trustee. Tr. 1:25 (Mignanelli). The sisters wanted Mignanelli appointed as the successor trustee for both trusts. Tr. 1:30 (Mignanelli).

7. There was some urgency to the filing. First, following Louis's death in March 2021, no one had been able to access rental checks that were received from one of the trust properties, as no one had access to a bank account that was still in the mother's name. Tr. 1:29 (Mignanelli). Next, the sisters were concerned that no one was taking care of the two properties. Id. Third, in light of the family discord, the sisters wanted to be the first ones to go to court to get their chosen trustee appointed. Tr. 1:34 (Mignanelli). Concerned that the other family members – the surviving sibling Joseph and/or Louis's heirs—would seek their own trustee, the sisters did not want to wait and respond to another petition; they wanted to file first. Id.

**Mignanelli Hires the Respondent**

8. Mignanelli wanted independent representation for himself on behalf of the sisters, testifying that it has always been his practice "that the attorney being asked to be appointed in

the fiduciary role not be the petitioner." Tr. 1:30 (Mignanelli). Accordingly, in December 2021, Mignanelli contacted the respondent's firm for assistance in filing a Petition for Appointment of Successor Trustee. See Ans. ¶ 10. He called the respondent's father, whom he knew, and the father suggested that the respondent, whom he did not know, handle the matter. Tr. 1:22-23 (Mignanelli).

9. The respondent and Mignanelli spoke by phone in late December 2021. Tr. 1:31 (Mignanelli). He explained that there was some urgency to the filing. Tr. 1:31-32 (Mignanelli). The respondent understood this. See Respondent Jane I. Coogan's Proposed Findings of Fact and Conclusions of Law (Respondent's PFCs), ¶ 3, p. 2. The respondent agreed to file the Petition on behalf of the sisters, at an hourly rate of $300. Ans. ¶ 11; Ex. 1.

10. At no point did the respondent tell Mignanelli that her workload at the time was onerous, or that someone else in the firm would be better suited to his needs. Tr. 1:32 (Mignanelli); Ex. 33; Respondent's PFCs, ¶ 3, p. 2.

11. The respondent and Mignanelli spoke again on January 11, 2022. Ex. 2 (002). It was agreed that he would prepare draft documents for her review. Id. A phone call with the sisters and Mignanelli followed on January 27, 2022. Ex. 2 (003).

12. On February 3, 2022, Mignanelli emailed the respondent a draft petition requesting the appointment of a successor trustee ("the Petition"), and a schedule of assets in the family trust. Ans. ¶ 12; Ex. 3. The documents were sent to the respondent in Word and Excel so she could make changes. Ex. 3 (005).

**Preparation of the Petition and Communications about a Hearing**

13. Over the next month or so, the respondent got to work. She chose a form, entitled General Trust Petition, to accompany the Petition, and filled in the sisters' names and some basic

information about the trust and its beneficiaries. Ex. 4 (006-007); Ex. 23 (046). The General Trust Petition provided in bold on p. 1: "A copy of the trust and any amendments are attached or are on file with the Court." Ex. 4 (006).

14. As to the Petition itself, the respondent made very few changes to the draft Mignanelli had sent her on February 3. She changed the word "undersigned" to "petitioners" in the introductory paragraph. Compare Ex. 4 (008) with Ex. 25 (052). She added docket numbers to paragraphs 8, 9 and 10 setting out, respectively, the dates of death for the two settlors and Louis. Compare Ex. 4 (008-009) with Ex. 25 (053). She removed everything after the "Wherefore" clause, specifically: the signature block, which had lines for a "date" and a "hearing date"; verifications to be signed by each client and notarized; and a "Certification" reflecting that she had served the Petition on the clients, the other beneficiaries, and Mignanelli. Compare Ex. 4 (011) with Ex. 25 (056-059).[3]

15. After a conversation with the sisters and Mignanelli on March 10, 2022, in which the sisters agreed she could sign for them, she did so, signing her own name on the form under the pains and penalties of perjury, dating it March 10, 2022, and directing the court to the "attached document" – the Petition itself - for the relief she was requesting. Ans. ¶ 13; Ex. 4 (007).

16. We credit that on or around Friday, March 18, 2022, the respondent prepared a cover letter to the Bristol County Probate and Family Court in Taunton, dated March 22, 2022, to accompany the General Trust Petition. Ex. 25 (062); Ex. 26 (076); Tr. 1:103-104 (Respondent).[4]

[3] For reasons that were not made clear, only the Taveira Irrevocable Interest Trust is mentioned in the Petition. See Ex. 4 (006); Ex. 25 (052, 060).

[4] Ex. 26 consists of the respondent's time records for the Mignanelli/Taveira Irrevocable Trust matter. There is an entry for .25 hours on March 18, 2022. There are no time entries after that date. We credit the testimony of her colleague, Withers, who is the firm's timekeeper, that time records cannot be retroactively changed or fixed. Tr. 2:92 (Withers).

17. We credit that the letter was prepared on or about March 18, 2022. While the respondent was unable to point to meta data in support, she did testify credibly that she reused the same template – i.e., wrote new letters over old—but did not electronically save anything. Tr. 2:69-70 (Respondent). Instead, she printed a hard copy of the letter and the Petition she allegedly enclosed with it, "so I would have a physical copy for the file, because that's always what I felt as though was more important than a digital copy that does nothing usually." Tr. 2:69, 71 (Respondent). She explained that she had had the firm's computer service company search for a digital copy of the letter, which presumably would have shown the date the document was actually created, but "there was nothing there." Tr. 2:70 (Respondent).

18. The cover letter has an obvious typo in it: the respondent's signature block appears twice. In addition, there is no "enclosure" line, and no "ccs or bccs"; the letter does not reflect that the clients or Mignanelli were copied, and the respondent has admitted that they were not. Ex. 24; Tr. 1:100-101 (Respondent).

19. The respondent blamed herself for these errors, testifying that the secretary she had had at that time "was just not on top of things," and so the respondent had had to handle urgent matters herself; even though the respondent "routinely" drafted filing letters, she was not skilled at secretarial work. Tr. 1:145-146 (Respondent).

20. While we credit that the respondent prepared the letter on or around March 18, 2022, as explained in more detail below, two of us find that she never mailed it to the court.

21. Recognizing that there was likely to be an objection to his appointment by one of the other beneficiaries, Mignanelli assumed, and the respondent confirmed, that there would be a hearing after the Petition was filed. Tr. 1:43-44 (Mignanelli). On March 28, 2022, roughly two-and-a-half weeks after the March 10 phone call, Mignanelli emailed the respondent and asked if

she had heard from the court about securing a hearing. The respondent replied, "Not to date. If I don't hear something by the end of the week, I will reach out to the clerk I am friendly with for an update." Ex. 5.

22. Mignanelli emailed the respondent on April 11 and April 21, asking about a hearing date, and reminding her that the clients were anxious to proceed. Ex. 6. She ignored him. Tr. 1:45 (Mignanelli); Tr. 1:112 (Respondent). His paralegal emailed her three times in May seeking a status update and hearing date, and also left multiple voice mail messages for her. Ex. 7. She ignored these. Tr. 1:47 (Mignanelli).

23. On June 1, 2022, having heard nothing from the respondent, Mignanelli again emailed her, inquiring about a hearing date for the Petition. Ex. 8. He reminded her that there were tenants in one of the properties, and set out his understanding that the matter had been filed over a month ago. Id. Mignanelli also noted that he had to "reach out to the clients with an explanation as to why we still do not have a hearing date." He asked her to call him the following day. Id.

24. Although the exhibit is barely legible, the respondent appears to have called Mignanelli on June 2, and left a message with his paralegal about her availability. Ex. 9. However, she and Mignanelli did not speak in early June. Tr. 1:49 (Mignanelli).

25. On June 8, 2022, in response to a request from the respondent, Mignanelli's paralegal provided her with a copy of the Taveira Irrevocable Income Trust Agreement dated July 12, 2001. Ex. 10.

26. During the week of June 20, 2022, when asked about a hearing date by Mignanelli's paralegal, the respondent identified July 13, 2022. Ans. ¶ 19. The paralegal informed Mignanelli that they had a July 13, 2022 hearing date. Tr. 1:53-54 (Mignanelli). By

email to the respondent dated June 27, the paralegal referenced an earlier call with the respondent's office, and confirmed her understanding that Mignanelli did not need to be present for the July 13 hearing. Ex. 12 (020-21). She asked the respondent for a copy of the filed Petition with the case number, and the exact time of the hearing. Ex. 12 (021). In a June 28 email, the respondent wrote an incomplete response: "Yes, absolutely. I am on vacation this week, but will my assistant [sic] . . . get that over to you." Id.

**Majority's Findings of Fact, Count One**

27. The respondent did not send the Petition to Mignanelli. By email dated July 5, 2022, Mignanelli's paralegal again asked for a copy of the signed Petition with the case number and the exact time of the hearing. Ex. 13 (022-023).

28. On July 8, 2022, the respondent sent Mignanelli's office what she described as "a copy of the General Trust Petition filing." Ex. 14 (027). The email we have been given as Ex. 14 does not include the attachment, so we do not know precisely what she attached. She wrote that Mignanelli did not need to appear on July 12. Id. The paralegal wrote back almost immediately that she thought the hearing was July 13. She asked again what time it was, and noted that one of the clients had called, asking about the time of the hearing and whether she and her sister needed to attend, and noting that the clients had not received notice. Ex. 14 (026). The respondent again did not answer in full, writing: "Yes, 7/13, that was my mistype" and adding that "[t]he clients do not have to be present either and would not have received notice, as they are the petitioners." Ex. 14 (025-026).

29. Later that day, the paralegal again wrote the respondent, seeking clarification on three items which she numbered, asking specifically: (1) what time the hearing was; (2) whether notice had gone out to the other siblings; and (3) what the docket number was, noting that she

had not seen the docket number on the signed Petition. Ex. 15 (028). The respondent ignored this, and the paralegal followed up with an email on July 11, 2022, seeking clarification on the enumerated items. Id.

30. In the face of these repeated references to, and questions about, a hearing, the respondent nonetheless argues that when she used the term "hearing" or "hearing date" in her correspondence with Mignanelli and his office, she actually meant "return date." See Answer, ¶ 19; Tr. 1:124-126 (Respondent). She testified that in Rhode Island, where Mignanelli and his paralegal were located and accustomed to practicing, "everything is a hearing," while in this Massachusetts matter "there never would've been a hearing" and she "would never have said that." Tr. 1:126-128 (Respondent).[5]

31. She bolstered this implausible explanation by claiming that she had explained to Mignanelli's paralegal, orally and repeatedly, that the July 13 event was "not a hearing at all," Tr. 1:125-126, 129 (Respondent), and that in Massachusetts "no hearing date is set until there is an objection to the Petition, but a return date is initially set by the court upon receipt of a filing." Respondent's PFCs, ¶ 49, p. 17.[6] She noted that the paralegal did not testify to contradict the

[5] We do not agree that "there never would have been a hearing" is an accurate statement of Massachusetts probate practice. See Tr. 2:16-18 (Benoit) (after a citation is returned and the filing attorney waives further notice, if by the return date there has been no opposition filed, a review hearing would be scheduled. If an opposition has been filed, a pretrial hearing would be scheduled. Either way, there would be a hearing. A matter could be decided administratively, meaning with no hearing, only if an attorney filed a motion for same and a judge approved it). We find that the usual practice is that a hearing is held whether or not a petition is opposed. Even if we were to credit the respondent's statement that until this disciplinary proceeding she did not know there would be a hearing even in an uncontested case, see Tr. 2:59-60 (Respondent), we would still find that she stated repeatedly, and led Mignanelli and his paralegal to believe, that a hearing had been scheduled and, as found infra, misrepresented that a hearing had been held.

[6] The respondent testified before us that a *return date* is set by the court for three to six weeks after filing; it varies depending on court volume. Tr. 1:130-131 (Respondent). But the return date itself – the date by when to object - would occur much later. See Withers's testimony, discussed infra, to the effect that after a Petition is filed, a citation is issued to the petitioner, who must give notice to the interested parties to make any objections before the return date. Tr. 2:97-98 (Withers). In August 2022, it took the court about six weeks – not "unique" during Covid - to issue the *citation*. Tr. 2:99 (Withers). The *return date* would necessarily follow, by some period, the date of the issuance of the citation. See Ex. 29 (084).

claim that she and the respondent repeatedly discussed how the subject was a *return* date, not a *hearing* date. Respondent's PFCs, ¶ 50, p. 17 (emphasis added).

32. One problem with this argument is that the respondent repeatedly suffered in silence the use of the term "hearing" by Mignanelli and his paralegal. While we agree that she did not use the term "hearing" in the scant and incomplete responses she sent to Mignanelli's office, that is not compelling in light of the fact that if she had indeed meant "return date," and Mignanelli's office instead consistently referenced a "hearing," she never corrected or clarified the alleged misunderstanding in writing. See generally Matter of O'Toole, 31 Mass. Att'y Disc. R. 511, 521 (2015) (upholding finding that lawyer made false statements in violation of Rules 3.3(1)(1) and 4.1(a); lawyer "crafted those misrepresentations in formulations that, while facially ambiguous, could be expected to deceive, and did so"); Matter of Hession, 29 Mass. Att'y Disc. R. 338, 350 (2013) (finding violation of rules 3.3(a)(1), (2), 8.4(c), (d) and (h) when lawyer's answer to the Court's question "was clearly intended to mislead the court," citing Kannavos v. Annino, 356 Mass. 42, 48 (1969) ('[f]ragmentary information may be as misleading . . . as active misrepresentation, and half-truths may be actionable as whole lies . . . .'")).

33. The fact that the paralegal was not called to testify about what the respondent allegedly told her does not help the respondent. The documents and testimony manifestly support bar counsel's interpretation. Bar counsel has no obligation to interview or call witnesses who might undermine the evidence produced and/or be helpful to the respondent. To the extent that the respondent had a meritorious defense that would have been supported by the paralegal, she had access to the paralegal and could have called her as a witness. See Matter of London, 427 Mass. 477, 481-482 (1998). See also Matter of Zankowski, 487 Mass. 140, 148–149, 37 Mass. Att'y Disc. R. 554, 565 (2021) (adverse inference warranted "from the respondent's failure to

offer materials, readily available to her, that would presumably support her version of the facts if true"); Mikkelson v. Connolly, 229 Mass. 360, 362 (1918) (failure of defendant to produce his ledger of account with plaintiff competent for jury's consideration; "[i]f it was within the power of the defendant to produce it and he failed to do so, it could have been inferred that, if produced, it would not have supported the claim of the defendant.").

**Post-July 13, 2022 Events**

34. On July 18, Mignanelli's office asked the respondent for information about the hearing that they understood had been held on July 13. An email sent by the paralegal at 3:24 PM is described as a follow up to a message left earlier in the day, noting that Mignanelli wanted "to get back to our clients with an updated [sic] from last Thursday's hearing." Ex. 16 (029). Two days later, the respondent's paralegal followed up with some available times, and a call between Mignanelli and the respondent was scheduled for July 22. Ex. 17 (030-033).

35. The day before the scheduled call, July 21, Mignanelli called the respondent from his car. Tr. 1:63 (Mignanelli). She answered, and told him that "the matter was entered by the Court." Id. Mignanelli understood this to mean that "everything ha[d] been finalized but for a court order." Tr. 1:64 (Mignanelli). He followed up with a text message to her on July 22, where she told him she had "[s]poke[n] with the clerk and she will monitor for me." Ex. 18 (034).

36. Meanwhile, unbeknownst to Mignanelli, on July 8, 2022, Joseph Taveira, the sisters' brother, filed his own Petition for Appointment of Successor Trustee with the Bristol County Probate Court. Ans. ¶ 28; Ex. 28 (079).

37. By July 24, 2022, Mignanelli had learned that there was a Probate Court filing on record from someone else, and asked the respondent if she had filed the case. Ex. 18 (035); see

Exs. 28, 29. He texted her: "PLEASE call me. Thus is [sic] now gone on too long." Ex. 18 (035) (emphasis in original).

38. The respondent failed to respond to Mignanelli's July 24 text. Ans. ¶ 38.

39. Mignanelli sent an email to the clients Monday, August 8, writing that he had spoken with the respondent "the week before last and the judge granted the Order appointing me as administrator. My understanding was that the Clerk needed to issue the Order which was going to be done this past week." Ex. 19 (037).

40. The respondent insists she never told Mignanelli that the matter had been heard. Tr. 1:141 (Respondent). We find otherwise. We find that the respondent's statements that she had filed the Petition and was in touch with a clerk about an order were knowingly false, deceptive, and misleading.

41. We rely for our finding on the facts adduced above, and on Mignanelli's statement in the August 16, 2022 complaint he filed with bar counsel, to the effect that on July 21, as described above, the respondent had "personally told [him] that the matter had been heard by the Court and that the only part left was for the Clerk to enter the Judge's Order." Ex. 21 (039).

42. The respondent's steadfast silence about the status of the matter continued. She ignored an August 12 email from Mignanelli's paralegal, seeking information about the status of the matter. Ex. 20. Mignanelli had his paralegal contact the Probate Court to verify that the respondent had filed the Petition. Tr. 1:65 (Mignanelli). The paralegal did so, and told him there was nothing on file. Tr. 1:66 (Mignanelli). He called the court himself in August 2022, and was told there was nothing on record. Id.; Tr. 2:7-9 (Benoit). Despite his numerous attempts to reach the respondent, she never responded to Mignanelli. Tr. 1:68-70 (Mignanelli); Ex. 21 (040).

43. The sisters were very unhappy when they learned what had happened. Tr. 1:68 (Mignanelli). Mignanelli found them another attorney to file their Petition, but they decided against this and terminated Mignanelli's services. Tr. 1:69 (Mignanelli). The clients did not ever oppose their sibling's petition. Ex. 29 (084).

**Majority's Conclusions of Law – Count One**

44. Bar counsel charged that the respondent's conduct in failing to file the Petition for Appointment of Successor Trustee or take any action of substance to advance the matter violated Mass. R. Prof. C. 1.1 (act with competence), 1.2(a) (seek client's lawful objectives), and 1.3 (act with reasonable diligence and promptness).

45. In light of the facts found above, we agree that bar counsel has proved these rule violations.

46. Bar counsel charged that the respondent's conduct in failing to maintain reasonable communications with her clients concerning the status of the Petition, failing to inform the clients that she had not filed their Petition, and failing to sufficiently explain the status of the case to allow her clients to make informed decisions regarding the representation violated Mass. R. Prof. C. 1.4(a) (consult with client) and 1.4(b) (explain matters so that client can make informed decisions).

47. In light of the facts found above, we conclude that bar counsel has proved these rule violations.

48. Bar counsel charged that the respondent's intentional misrepresentations to Mignanelli that she had filed the Petition and that the matter had been heard by the court violated Mass. R. Prof. C. 4.1 (a) (do not knowingly make a false statement of material fact or law to

third person) and 8.4 (c) (conduct involving dishonesty, fraud, deceit, or misrepresentation) and (d) (conduct prejudicial to the administration of justice).

49. Based on the facts we have found above, we conclude that bar counsel has proved the respondent made intentional misrepresentations to Mignanelli that she had filed the Petition, in violation of Rules 4.1(a), 8.4(c) and 8.4(d).

50. We conclude, for the reasons enumerated above, that the respondent made intentional representations to Mignanelli that the matter had been heard by the Probate Court, in violation of Rules 4.1(a), 8.4(c) and 8.4(d).

**Hearing Committee's Unanimous Findings of Fact – Count Two**

51. On August 16, 2022, Mignanelli filed a complaint at the Office of Bar Counsel alleging that the respondent failed to file a Petition for Appointment of Successor Trustee for which she was retained and made intentional misrepresentations to him and members of his office regarding the scheduling of a hearing on the Petition. Ex. 21.

52. On September 16, 2022, bar counsel sent Mignanelli's correspondence to the respondent and asked her for a full explanation of her conduct. Among other things, bar counsel asked the respondent to provide a page-by-page copy of her entire client file. Ans. ¶ 46 (not denied).

53. On October 12, 2022, the respondent submitted a narrative letter to bar counsel by way of an answer. Ex. 23 (046). She wrote that she had mailed the Petition to the Bristol County Probate Court on March 22, 2022, but that in early June it was mailed back to her because she had neglected to include the filing fee. Id.[7] She had not been concerned that she had heard nothing from the court until June, "because the turnaround time is usually around eight weeks

[7] This is consistent with her Answer to the Petition for Discipline. See Ans. ¶ 15.

before we get something processed and docketed, and a return date." Tr. 1:119 (Respondent). Intending to file it by hand, she called the court in early June to ask what return dates they were then issuing, and was told July 13. Tr. 1:159 (Respondent); Ex. 23 (046-047).

**The Respondent's Purported March 22, 2022 Letter to the Court**

54. At the time of her response, the respondent submitted to bar counsel a letter on her letterhead dated March 22, 2022, which purported to be her cover letter to the Bristol County Probate Court enclosing the General Trust Petition for Appointment of Successor Trustee. The respondent claimed to bar counsel that this was the cover letter she had used to mail the Petition to the court. Ans. ¶ 47 (not denied); Ex. 25 (062).

55. At the hearing, the respondent repeated her claim that the court had sent the package back to her because she had failed to include a filing fee. She was unclear about how she had been notified that the filing fee was missing, saying she had both a vague recollection of a phone call, and a vague recollection of a Post-it note or sticky note on the returned pleading. Tr. 1:116-117 (Respondent). She did not keep the Post-it note or the envelope in which her materials were allegedly returned. Tr. 1:117 (Respondent). She admitted that in her informal response to Mignanelli's complaint, her Answer, and her Statement Under Oath (described below) she had not ever mentioned a Post-it note. Tr. 1:117-121 (Respondent).

56. We received evidence about how the Probate and Family Court responds when something is filed without a proper filing fee. Katie Benoit, Operations Supervisor at the Probate and Family Court in Taunton, has worked in the probate office for twenty years. Tr. 2:6-7 (Benoit). She specifically works on the trust cases. Tr. 2:9 (Benoit). She searched the docket in response to Mignanelli's inquiry, see above, and found no case on file. Tr. 2:7-8 (Benoit). She

testified that the Taveira case "does have a familiar name for me, so I would have remembered it" had it come through to her. Tr. 2:9 (Benoit).

57. Benoit testified that the "practice" in 2022 was "really up to the clerk." Id. Many people opened the mail at that time, up to twenty-five different people. Tr. 2:12 (Benoit). Benoit's particular practice where a fee is missing is to call or email the attorney. Tr. 2:9 (Benoit). Another option is to send a deficiency notice; these are commonly sent out. Tr. 2:10, 2:11 (Benoit).

58. A further possibility would be to put a sticky note on the filing and return it to the attorney. Tr. 2:13 (Benoit). Benoit has never done this; she would "rather get the revenue for the trial court," and thinks it "wastes time to keep sending things back." Id. She calls or emails the attorney. Id.

59. Juliane Clark is an attorney and the First Assistant Register at the Bristol County Probate and Family Court. Tr. 2:20-21 (Clark). She functions as counsel for the Probate Court, and helps set policy and procedure. Tr. 2:21 (Clark). She is familiar with the register's internal procedures for receiving filings. Id.

60. In the March 2022 time frame, the priority was to open all mail every day. Tr. 2:21-22 (Clark). Two to three people were assigned to do this each day. Tr. 2:22 (Clark). Trusts were not considered a priority, and would be docketed in the order they were received. Tr. 2:23-24 (Clark). A pleading that did not include a filing fee would go to the relevant department; if it was missing a filing fee or required documents, ideally it would be returned to the sender as one complete package. Tr. 2:24-25 (Clark).

61. However in light of the less-than-ideal rough-and-tumble of the Probate Court, Clark "like[s] to email the attorney . . . rather than just sending something back." Tr. 2:26

(Clark). "[D]epending on who's opening the mail, there may not be a clear . . . protocol." Id. Mail could be opened by any one of thirty-five employees. Tr. 2:27 (Clark).

62. Clark clarified that if a deficiency notice is sent, it would be kept in a case file, but if there is no file because the matter is new, such notices should be kept by individual employees for a year and placed in a master binder. Tr. 2:28-29 (Clark). No deficiency notice was found for the respondent, but this does not mean the case was not filed; it could have been, but there is no record of that. During the COVID-19 pandemic, protocol was not always followed correctly. Tr. 2:29 (Clark).

63. The respondent's law partner, Stephen Withers, Esq., testified anecdotally about his own experience. He has had ten or fifteen filings returned to him over the course of his career. Tr. 2:88 (Withers). Most often, he has received a phone call saying he has forgotten something and asking him to refile or telling him his filing would be returned. Sometimes, he has received the filing back with a sticky note. Tr. 2:89 (Withers). Other times, he has received a deficiency notice. Tr. 2:89-90 (Withers).

**Majority's Findings of Fact, Count Two**

64. Having considered all of the above, we find and conclude that the respondent never mailed the Petition to the Probate Court. We base our conclusion on the facts adduced above. These include first that the respondent did not contemporaneously send Mignanelli or the sisters a copy of the March 22, 2022 letter and Petition. Tr. 1:100-101 (Respondent). Next, the respondent has no physical evidence that she ever filed the letter and Petition. We would have expected her file to contain two copies, had one been returned: the copy she allegedly printed in March, and the returned copy. It did not. See Ex. 25. Further, there is no evidence that the Petition was ever received by the court. Third, while there was testimony by the court personnel

and Withers that sometimes filings are returned, we find that it was more common for the court to keep a deficient filing and call or email the attorney to send in the filing fee. This finding could have been offset had the respondent produced physical evidence that the package was returned, but she has not. She did not keep the return envelope or the Post-it note that allegedly accompanied the return. She did not tell anyone that the Petition had been returned.[8]

65. More plausible to us, based on the evidence and reasonable inferences, is that the respondent made some preparations to file the Petition in March 2022, but did not follow through. Because of the March 10, 2022 conversation where she received authorization from the sisters to sign for them, they and Mignanelli presumably believed the Petition was filed shortly thereafter. The respondent strung them along. She may well have realized by June 2022 that, in light of the insistent emails and phone messages from Mignanelli and his paralegal, she had to do something; there is evidence that she contacted Mignanelli's office for a copy of the Trust on or around June 8, a requirement to accompany the Petition. See Ex. 4 (006); Ex. 12 (020).

66. Assuming without deciding that the respondent asked the Probate Court in early June about a return date and was told "July 13," with every day that passed without the Petition being filed, the July 13 date became less and less viable. And certainly by late June and early July, when nothing had been filed and she continued to misrepresent that July 13 was "the date"—whether for the hearing or the return—she must have known she was lying. See Exs. 12, 13, 14.

[8] We also do not credit that it would have taken over ten weeks for the Probate Court to alert the respondent that the filing fee was missing. The respondent admitted that the mail typically took only a few days to get from her office in Attleboro to the court in Taunton. Tr. 1:107-108 (Respondent). Further, as we noted above, the mail in the Probate Court was opened every day. While it may have taken weeks for a citation to issue and a return date to be set, we received no evidence suggesting that it would have taken anywhere near that amount of time to return a noncompliant filing.

**The Respondent's Statement Under Oath**

67. On May 24, 2023, the respondent answered questions under oath at the Office of Bar Counsel. Tr. 1:92 (Respondent). We find that in doing so, the respondent intentionally misrepresented that she had mailed the March 22, 2022 letter and the Petition to the Probate Court. See Tr. 1:100 (Respondent).

68. During the same meeting under oath, the respondent also intentionally misrepresented that the court had returned her March 22, 2022, letter and the Petition for Appointment of Successor Trustee, for "a failure to enclose the filing fee." Tr. 1:119 (Respondent). Based on our findings above, we find that this statement was false, misleading and deceptive.

69. During the respondent's SUO, bar counsel asked her if she had told Mignanelli or his paralegal that a hearing was scheduled for July 13th. The respondent answered under oath as follows: "No. I would not have stated that there was a hearing on the 13th so I think that - that's where there was a miscommunication [because] there's never a hearing unless somebody objects." Tr. 1:139 (Respondent). A majority of us find that the first part of this statement was intentionally false, and the second part incorrect as a matter of practice. See supra, n. 5.

**Consequences Following Misconduct**

70. On January 12, 2023, the sisters sued Mignanelli in Rhode Island Small Claims Court, seeking a $5,000 refund of the $7,500 they had paid him. Ex. 22. They had requested from him a refund of the full $7,500; he had refused, and they were limited in Small Claims Court to $5,000 in damages. Ex. 22 (043).

71. The sisters itemized their alleged harm, including that they had had to maintain two trust properties, at a cost to them personally of $21,150; that they had had to deal with the

challenges of managing a three-family home they were unable to collect rent money from, own or sell; and that they had missed the opportunity to choose their own lawyer to represent the trust because while they were waiting for their Petition to be submitted, another beneficiary successfully submitted his Petition. Ex. 22 (044-045).

72. Mignanelli defended the case over the course of three days, explaining that it took three days because things moved very slowly in the Small Claims Court. Tr. 1:70-71 (Mignanelli). He was ordered to repay $2,900, which he did immediately. Tr. 1:72 (Mignanelli). A sheriff appeared at his office on a Friday afternoon, demanding payment. Id. Mignanelli showed proof that he had paid. Tr. 1:73 (Mignanelli). He was told that had he not had the judgment ready, they were going to arrest him. Tr. 1:72 (Mignanelli). About a month later, the respondent reimbursed Mignanelli the money he had paid to the sisters. Tr. 1:74 (Mignanelli).

73. In August of 2024, Mignanelli received a phone call from the respondent's partner Stephen Withers, mentioned above. Tr. 1:76 (Mignanelli). He asked Mignanelli about the disciplinary proceedings, but did not ask anything of Mignanelli. Tr. 1:77 (Mignanelli).

74. In early October 2024, the respondent's father called Mignanelli. Tr. 1:74-75 (Mignanelli). He asked Mignanelli if he had read the respondent's answer to the complaint, and observed that "as a parent, . . . he doesn't want anything bad to come upon his daughter." Tr. 1:75 (Mignanelli).

75. Mignanelli surmised that both calls were made to try to see whether or not he would proceed with the bar complaint, or if he had the authority or inclination to withdraw it. Tr. 1:77 (Mignanelli).

76. The respondent's attorney in this disciplinary matter also called Mignanelli, but Mignanelli did not return the call and they did not speak. Tr. 1:80 (Mignanelli). In none of those calls did anyone make threats to Mignanelli about his testimony. Tr. 1:81 (Mignanelli).

**Majority's Conclusions of Law – Count Two**

77. Bar counsel charged that the respondent's intentionally false statements to bar counsel in the course of his investigation of the respondent's conduct – specifically, that she filed the March 22, 2022 letter and Petition with the Probate Court; that the Probate Court returned the package to her due to her failure to include the filing fee; and that she would not have stated to Mignanelli that there was a hearing on July 13—violated Mass. R. Prof. C. 8.1(a) (in connection with a disciplinary matter, do not make knowingly false statement of fact) and 8.4(c), (d) and (h) (any other conduct that adversely reflects on fitness to practice).

78. We conclude, for the reasons stated above, that bar counsel has proved these rule violations.

79. Bar counsel charged that the respondent's conduct in knowingly submitting to bar counsel, during the course of an investigation, a fabricated cover letter allegedly sent to the court violated Mass. R. Prof. C. 8.1(a), 8.4(c), (d) and (h).

80. As used in our case law with reference to documents, "fabricated" generally means faked or forged. See, e.g., Matter of Kafkas, No. BD-2024-031 (April 18, 2024), slip op. at 1 ("fabricated letter" was one "purporting to be authored by the client that informed bar counsel [that client] wished to withdraw his complaint"); Matter of Lapointe, No. BD-2023-037 (April 25, 2023), slip op. at 1 (after client requested documentation of settlement offer, "the respondent fabricated a letter to mislead her into believing that he had actually settled her claim with the insurer"); Matter of Martin, 38 Mass. Att'y Disc. R. 347, 348 (2022) (in response to

client's question asking when petition had been filed and served, the respondent "fabricated and sent the client a false cover letter for the petition dated April 1, 2018, and an invoice from a Sheriff's office which the respondent doctored to falsely reflect a service date of June 14, 2018"); Matter of Levintoff, 32 Mass. Att'y Disc. R. 331, 331 (2016) (respondent concealed misconduct with deceit; he "fabricated a settlement offer he purported to be from debtor's counsel, fabricated an agreement for judgment purportedly filed in a fictitious court and provided an altered image of a check he had received from the debtor"). Compare Matter of Hashem, 33 Mass. Att'y Disc. R. 192, 194 (2017) (finding that bar counsel had proved lawyer submitted fabricated letters, in violation of Rules 3.4(b), 8.1(a), 8.4(c), 8.4(d) and 8.4(h), when lawyer submitted to bar counsel letter she wrongly claimed she had sent to insurer).[9]

81. We found above that the March 22, 2022 letter was created on or about March 18, 2022. It was not fabricated after the fact; it was created contemporaneously but never sent. We did not and do not find that the respondent created the letter in response to bar counsel's inquiries. To the extent this is the import of the charge, we do not find that it was proved. To the extent that bar counsel is charging that the respondent lied about whether the letter had been sent, a majority of us have already found that charge proved; to find it again would be duplicative.

[9] Dictionary definitions of "fabricate" vary. See, e.g., **Black's Law Dictionary (12th ed. 2024) Evidence**: "fabricated evidence" is "False or deceitful evidence that is unlawfully created, usu[ally] after the relevant fact, in an attempt to avoid liability or conviction; **Black's Law Dictionary (12th ed. 2024)**: fabricate: "**1.** To frame, construct, or build. **2.** To prepare (something) according to standard or prepared specifications. **3.** To form by labor and art; to produce or manufacture. **4.** To invent, forge, or devise falsely. • To fabricate a story is to create a plausible version of events that is advantageous to the person relating those events. The term is softer than *lie*"; **Random House Webster's Unabridged Dictionary** (2nd ed.): "**1.** to make by art or skill and labor; construct; . . . **2.** to make by assembling parts and sections. **3.** to devise or invent (a legend, lie, etc.). 4. to fake; forge (a document, signature, etc.)."

**Matters in Mitigation and Aggravation**
**Hearing Committee's Unanimous Findings of Fact as to Mitigation**

82. In mitigation of her misconduct, the respondent cites extraordinary stress in her personal life.

83. In May 2021, the respondent's husband was arrested at the Norfolk, Massachusetts commuter rail station on charges of "open and gross" conduct, and "lewd and lascivious conduct." Ex. 30. The local newspaper wrote that he allegedly "fondled himself in front of a woman parked in her car at the station." Id. He claimed that he had been urinating in bushes near the parking lot and that there had been a "complete misunderstanding." Id.

84. We credit that it was deeply humiliating for the respondent to see this article on the first page of the local newspaper, and to have to meet with her law partners and then with her staff to explain what had happened. Tr. 1:163; Tr. 2:73 (Respondent).

85. As a result of the allegations, the husband was terminated from his job as an art teacher in a private Catholic high school. Tr. 1:164 (Respondent). The respondent became the primary breadwinner for the family, which includes two young daughters. The husband spent his time in the marital home, smoking marijuana daily. Tr. 1:167 (Respondent). In November 2021, the husband admitted to "sufficient facts to be found guilty," and the criminal matter was continued without a finding of guilt. Tr. 1:161, Tr. 2:48 (Respondent).

86. On June 21, 2022, her fourteenth wedding anniversary, the respondent was cleaning the guest room where her husband had been sleeping when she discovered what she described as "weird provocative clothing," some with cutouts for genitals. Tr. 1:165-166, 169, Tr. 2:63-64 (Respondent). She also discovered drug paraphernalia. She photographed all of this. Ex. 31.

87. A few weeks later, the respondent discovered that her husband had Twitter and email accounts under a false name, accounts in which he engaged in sexually suggestive correspondence with others and shared sexually explicit photographs. Tr. 1:168-170, 172-174 (Respondent). She testified: "[A]ll of this weird public fetish stuff . . . basically made my brain explode. That I had been supporting somebody who had this narrative about his arrest, that [discovery] then made me believe that a lot of what was contained in that police report . . . was true." Tr. 1:169 (Respondent).

88. The respondent testified that in the same general time frame, around June 2022, her husband texted her repeatedly at work, sending scores of text messages. Tr. 1:169-170 (Respondent).

89. In July 2022, the respondent discovered that a small cut on her finger had become infected. Tr. 2:36 (Respondent). This realization followed a period of not feeling well for a couple of weeks. Tr. 2:37 (Respondent). The antibiotics she was prescribed caused her to have an itchy body rash that did not resolve until August 2022. Id.; Ex. 32. She did not sleep well from July into August. Tr. 2:40 (Respondent).

90. Throughout the summer, in June, July and August 2022, the respondent's relationship with her husband was very strained. Tr. 2:41 (Respondent). The husband was not seeking therapy, and was not doing anything around the house or helping with the children. Tr. 2:42-43 (Respondent). This impacted the respondent at work, where she could not compartmentalize, was in a "constant state of overwhelmed," and experienced an "inability to do anything." Tr. 2:43-44 (Respondent).[10]

[10] We note that this testimony is not entirely consistent with the respondent's SUO and with other testimony she gave at the hearing, where in response to a question about whether her personal life affected her cases, she said "no," and confirmed that she was able to keep up. Ex. 34; Tr. 2:50, 54-56 (Respondent). We credit the testimony we cited above about the specific impact of the husband's activities on the respondent's state of mind.

91. The respondent filed for divorce in August 2023, and she and her husband sold their home in October 2024. Ex. 27; Tr. 2:45 (Respondent).

92. The respondent's sister, Maura Glynn, testified about the changes in the respondent's behavior after her husband's arrest, stating that while before it she was happy-go-lucky and fun to be around, after it, in 2022, she was "like a different person," withdrawn, quiet and unhappy. She would cry often. Tr. 2:120, 122-123 (Glynn). The respondent did not tell Glynn about her husband's internet activities until almost a year after she had discovered them; although the sisters were and are extremely close, the respondent was embarrassed and very uncomfortable about these. Tr. 2:122 (Glynn). We credit Glynn's testimony that the respondent underwent a personality change as the result of the embarrassment and stress.

93. We are aware that the time of the stressors does not track precisely with the time of the misconduct. The husband's arrest was in May 2021, and his plea in November 2021. This preceded the respondent's December 2021 engagement with Mignanelli. The respondent's dishonesty began in March 2022, and continued through her May 24, 2023 SUO. This is both before and significantly after the summer 2022 discovery of the clothing and the secret social media accounts.

94. We conclude that the case law does not demand precision timing as long as there is a causal connection between the trauma and the misconduct. E.g., Matter of Balliro, 453 Mass. 75, 87-89, 25 Mass. Att'y Disc. R. 35, 50-51 (2009) (lawyer lied under oath at trial to protect violent partner months after incidents of violence; suspension, which would likely have been in the two-year range, reduced to six months due to domestic abuse); Matter of Sweeney, 32 Mass. Att'y Disc. R. 552, 563-565 (2016) (lawyer whose daughter was badly injured in July 1 crash intentionally misused funds, causing deprivation, on August 12; this followed daughter's allergic

reaction to medicine on August 4 and irrational response to district court hearing on August 11; misuse was to pay tuition bill to ensure that daughter had continued health insurance coverage; due to mitigation, lawyer suspended for eighteen months instead of indefinitely). Cf. Matter of Johnson, 20 Mass. Att'y Disc. R. 272, 276 (2004) (holding that it was incorrect to focus on individual facts claimed in mitigation; proper analysis required consideration of totality of the circumstances, and revealed " a once successful attorney overwhelmed, frightened, and ashamed by snowballing financial losses and mounting emotional distress"; presumptive indefinite suspension for intentional misuse with deprivation and restitution reduced to thirty-month suspension).

95. We find that the respondent has proved mitigation as the result of her husband's situation.[11] We recognize that not all of her testimony is consistent about the impact her husband's behavior had on her. See supra, fn. 10. However on balance, we credit the respondent's testimony that the sequential revelations of her husband's criminal conduct, lies, perverse sexual behavior, and disloyalty, leading to the disintegration and eventual end of a long-term marriage, took a toll on the respondent's ability to function professionally.

**Majority's Findings of Fact as to Aggravation**

96. The respondent is an experienced attorney. Our case law treats experience as an aggravating factor. Matter of Moran, 479 Mass. 1016, 1022, 34 Mass. Att'y Disc. R. 376, 387 (2018); Matter of Luongo, 416 Mass. 308, 312, 9 Mass. Att'y Disc. R. 199, 203 (1993). We agree that this is a factor in aggravation.

[11] A majority of us do not find the respondent's infected finger and reaction to antibiotics to be mitigating.

97. The respondent committed multiple rule violations. This is an aggravating factor. See generally Matter of Foster, 492 Mass. 724, 767 (2023); Matter of Saab, 406 Mass. 315, 326, 6 Mass. Att'y Disc. R. 278, 289-290 (1989).

98. The respondent's conduct caused harm. We find harm to Mignanelli, who was sued in Small Claims Court, and spent three days defending himself. Ex. 22; Tr. 1:70 (Mignanelli).

99. We also find harm to the sisters, who wanted to be the first to file a Petition for successor trustee. Tr. 1:34 (Mignanelli). The fact that they ultimately decided not to contest the Petition filed by Joseph Taveira does not mean they did not suffer harm. We heard no evidence as to why they decided to file no opposition, and we will not speculate.

100. We find further harm to them from the fact that they had to sue Mignanelli to get a partial refund. They had paid him $7500 to file the Petition requesting his appointment, Ex. 22 (041), and we find that they did not get what they paid for. Harm is a factor in aggravation. Matter of Foster, supra, 492 Mass. at 752.[12]

101. We do not find that the respondent's testimony lacked candor. Compare Matter of Hoicka, 442 Mass. 1004, 1006, 20 Mass. Att'y Disc. R. 239, 243 (2004) (deferring to special hearing officer's finding of aggravation due to lack of candor/intent to deceive). The fact that part of her defense was denying dishonesty, and that we rejected this defense, does not, without more, compel a conclusion that she was not candid with us. She was entitled to present a defense.

[12] Perhaps some of this harm could have been mitigated, but we make no finding to this effect. We note only that Mignanelli was aware as of July 24 that something had been filed in the Probate Court. See Ex. 18 (035). In fact, the filing, which we assume was Joseph Taveira's Petition for Appointment of a Successor Trustee, had been docketed July 8, 2022. Ex. 28 (079); Ex. 29 (083). There is no explanation in the record for why Mignanelli waited until mid-August to call the Probate Court.

See generally Matter of Zankowski, 487 Mass. 140, 153, 37 Mass. Att'y Disc. R. 554, 571 (2021).

102. We do not find that the respondent did not appreciate that her behavior was wrongful, or that she did not understand why what she had done violated the rules. Compare Matter of Rosenberg, 491 Mass. 1027, 1029 (2023) (lawyer's misconduct is further aggravated "by his abject refusal to appreciate the wrongful nature of his behavior"); Matter of Bailey, 439 Mass. 151, 152, 19 Mass. Att'y Disc. R. 12, 34 (2003) (failure to recognize or appreciate wrongful nature of misconduct as factor in aggravation); Matter of Clooney, 403 Mass. 654, 657, 5 Mass. Att'y Disc. R. 59, 63 (1988) (finding aggravating conduct showing lawyer was "unmindful of certain basic ethical precepts of the legal profession"). On the contrary, we found her to be remorseful and deeply ashamed of her treatment of Mignanelli and the sisters. We decline to find this factor in aggravation.

103. We do not find that the contact the respondent's father and law partner made with Mignanelli was attempted intimidation in which the respondent was complicit. See Bar Counsel's Proposed Findings of Fact, Conclusions of Law and Recommendation for Discipline (BC's PFC'S), ¶ 67, p. 26. Assuming without more that witness intimidation can be a factor in aggravation, see generally Matter of DiLibero, No. BD-2024-052 (January 9, 2025), slip op. at 12, witness intimidation has not been proved. The attempt by the respondent's father and law partner to sway or deter Mignanelli was foolish and wrongheaded, but based on the description we heard, it did not rise to the level of threat or intimidation. Cf. Matter of Ruggiero, BD-2023-006 (March 15, 2023), slip op. at 9, n.7 (because attempts to contact complaining witness prior to hearing were unsuccessful, attempted contact not prejudicial to the administration of justice).

**Majority's Recommended Disposition**

Bar counsel recommends a suspension of at least six months and up to a year and a day. The respondent recommends dismissal. We recommend a six-month suspension, with three months stayed, on conditions.

In recommending a sanction, we are guided by the mandate that "[e]ach bar discipline case is decided on its own merits. . . ." Matter of Zankowski, supra, 487 Mass. at 149, 37 Mass. Att'y Disc. R. at 566. "[E]ach attorney receives the discipline that is 'most appropriate in the circumstances,' taking into account 'what measure of discipline is necessary to protect the public and deter other attorneys from the same behavior.'" Id. (citations omitted). It goes without saying that we will not find a case precisely like this one, but certain themes are reflected in the case law, and we are attuned to the rule that our recommendation should not be "'markedly disparate' from judgments in comparable cases." Matter of Foster, supra, 492 Mass. at 746 (citation omitted).

Our starting point is Matter of Kane, 13 Mass. Att'y Disc. R. 321 (1997). Kane teaches that absent aggravating and mitigating factors, a public reprimand "is generally appropriate where a lawyer has failed to act with reasonable diligence in representing a client or otherwise has neglected a legal matter and the lawyer's misconduct causes serious injury or potentially serious injury to a client or others." Id. at 328. "Suspension is generally appropriate for misconduct involving repeated failures to act with reasonable diligence, or where a lawyer has engaged in a pattern of neglect, and the lawyer's misconduct causes serious injury or potentially serious injury to a client or others." Id.

Above, we found that the respondent repeatedly failed, for months on end, to act with competence and diligence. Her misconduct caused harm to both Mignanelli and the sisters. Under Kane, this misconduct alone would warrant a short suspension. However, we found numerous

instances of additional, intentional misconduct, including the very serious circumstance of lying to bar counsel under oath.

Cases involving lying under oath in court warrant a two-year suspension. E.g., Matter of Diviacchi, 475 Mass. 1013, 1020-1021, 32 Mass. Att'y Disc. R. 268, 280-281 (2016) (presumptive sanction for giving false testimony is two years); Matter of Balliro, supra (lawyer lied under oath at trial to protect violent partner months after incidents of violence; suspension, which would likely have been in the two-year range, reduced to six months due to domestic abuse); Matter of Merrill, 34 Mass. Att'y Disc. R. 347 (2018) (stipulation to eighteen-month suspension for varied misconduct, including submitting false affidavit to SJC in effort to get reinstated and lying to bar counsel in statement under oath); Matter of Sousa, 25 Mass. Att'y Disc. R. 557 (2009) (two-year suspension for lawyer, engaged in romantic relationship with criminal client which ended poorly, who lied under oath at his probation hearing and criminal trial, and testified falsely before hearing committee). "False representations to bar counsel are 'comparable to making false representations to a court,' . . . [and] constitute a serious factor in aggravation." Matter of Curry, 450 Mass. 503, 532, 24 Mass. Att'y Disc. R. 188, 225 (2008) (citation omitted).

Other relevant cases, with similar fact patterns and rule transgressions but which do not include lying under oath to bar counsel, include: Matter of Gallagher, 35 Mass. Att'y Disc. R. 196 (2019) (stipulation to six-month suspension, stayed for two years subject to conditions to address psychological and law office management problems, for lack of competence and diligence, misrepresentations of fact and misleading statements to client and bar counsel's investigator); Matter of Hashem, supra, (nine-month suspension with reinstatement requirement, after default, for neglect; failure to maintain communication with client; intentionally false statements to bar counsel; knowing submission to bar counsel of fabricated documents; failure to cooperate with

bar counsel; and failure to comply with order of administrative suspension); Matter of Harris-Daley, 31 Mass. Att'y Disc. R. 244 (2015) (six-month suspension for misconduct in two matters, involving false statements to third person and false representations in a motion filed with the Probate Court that were "tangential to the merits of the proceedings"; with aggravation); Matter of Venturo, 30 Mass. Att'y Disc. R. 427 (2014) (stipulation to nine-month suspension for misconduct in three matters, including lack of diligence and competence; and intentionally false statements to clients in two matters; with aggravation (two clients lost the right to pursue their causes of action) and mitigation as to the lack of diligence (unexpected retirement of senior colleague); Matter of Molloy, 19 Mass. Att'y Disc. R. 302 (2003) (stipulation to three-month suspension, where lawyer signed client's name to affidavit and filed it in court; did not copy client; did not maintain proper communication with client, and lied to bar counsel, with mitigation (inexperience)); Matter of McCarthy, 17 Mass. Att'y Disc. R. 411 (2001) (stipulation to year-and-a-day suspension for varied misconduct in medical malpractice representation, including persistent neglect; lying to client to cover neglect; and false representations to bar counsel).

In light of the cases cited above, and noting the aggravation and mitigation we have found, we recommend that the respondent, Jane I. Coogan, be suspended from the practice of law for six months. We recommend further that three months of the suspension be stayed on the conditions we explain below. The respondent's office management practices were poor; aside from the misconduct we have found, we note, among other things, that she did not properly save documents, and was unable to produce a competent cover letter and send it to her clients with the appropriate enclosures. In addition, we think she could benefit from a continuing legal education course on trust basics or trust ethics. We therefore recommend that three of the six months of suspension be stayed, pending the respondent's (1) successful completion of a legal education

course, on a topic approved by bar counsel; and (2) consultation with LOMAP about the management of her law practice, and pledge to implement LOMAP's recommendations.

Dated: April 28, 2025

Respectfully submitted,
By the Hearing Committee,

Walter B. Sullivan
Walter B. Sullivan, Esq., Chair

Anthony J. Fitzpatrick
Anthony J. Fitzpatrick, Esq., Member

**Dissent of Regina Au**

While I agree with many of my colleagues' findings of fact, I write separately to express my disagreement with certain key findings, with many of their legal conclusions, and with their recommended sanction.

As to Count One, my first area of disagreement with the majority is on the question of whether the respondent mailed the March 22, 2022 letter on or about March 22. I would find that she did. First, I do not find it significant that the letter had typos in it. See Hearing Report, ¶¶ 18 and 19. I found credible the respondent's testimony that the secretary she had at the time was not reliable, and that even though the respondent was not skilled in secretarial tasks, she found it easier to do things by herself. Tr. 1:145-146 (Respondent). Perhaps more significant, I see no reason why the respondent would lie about mailing the letter. She had become the sole breadwinner for her family by this time, and I infer from this that she was eager for work. See Tr. 1:164 (Respondent).

The respondent has admitted that, after she received back the letter and Petition, she never actually filed the Petition. In light of her admission that she ultimately failed to file, she gains nothing by lying about sending the Petition in March. I believed her testimony, and would have found that she prepared and mailed the letter and Petition in March 2022.

I agree that for many months, the respondent failed to respond to many inquiries from Mignanelli's office. See Hearing Report, ¶¶ 27-29. However, I do not agree that she misrepresented that a hearing date, rather than a return date, had been scheduled. I credit her testimony that Massachusetts practice and Rhode Island practice differ, and that in Rhode Island, "[e]verything's a hearing." Tr. 1:158 (Respondent). I credit that the respondent and Mignanelli's paralegal discussed the different notice requirements between Massachusetts and Rhode Island, and that the respondent explained to the paralegal that it was a return date, not a hearing date, that was at issue. See Tr. 2:78 (Respondent). I would have found that the respondent explained to Mignanelli's office that she was talking about a return date, not a hearing date, but that due to the practice in Rhode Island, he and his paralegal heard and assumed that it was a hearing date.

I do not know why Mignanelli's paralegal was not called to testify. However, one explanation that comes to mind, in serious situations like this one, is that the people involved tend to get dismissed. We know that Mignanelli's paralegal is no longer with the firm and generally a severance package with an NDA will be offered. See Tr. 1:37 (Mignanelli).

I think Mignanelli heard what he wanted to hear. In the Hearing Report, ¶ 35 it states: "The day before the scheduled call, July 21, Mignanelli called the respondent from his car. Tr. 1:63 (Mignanelli). She answered, and told him that "the matter was entered by the Court." Id. Mignanelli understood this to mean that "everything had been finalized but for a court order." Tr. 1:64 (Mignanelli). He followed up with a text message to her on July 22, where she told him she had "[s]poke[n] with the clerk and she will monitor for me." Ex. 18 (034)."

Mignanelli interpreted and wanted everything to be finalized except for a court order because the sisters were on top of him. See Tr. 1:67 (Mignanelli): "Well, they must've been giving me a hard time, quite honestly. Mrs. Stansfield was difficult and she must've said

something for me to write please, no more hiccups. You know, I can't recall exact conversations, but this was the type of client that she was very, very much on top of the case. This isn't a client that I had to call and say hey, I just want to let you know a lot of time has gone by. She was very proactive. So she must've called me and said what the heck's going on? I don't seeing anything. I haven't heard anything. This is too long, et cetera. I don't remember that, but for me to write this text I am sure that's what happened."

My view of the case leads me to conclude that bar counsel did not prove many of the allegations. As to the **Conclusions of Law in Count One**, I do not agree that bar counsel has proved the Rule 1.1, 1.2(a) and 1.3 violations described in ¶ 44. As noted above, I cannot agree with the allegation therein that the respondent "took no action of substance to advance the matter"; I would have found that she mailed the March 22, 2022 letter, and that it was returned. This constitutes "some" action. I *do* agree with the majority's conclusions in ¶ 47 that the respondent violated Rules 1.4(a) and 1.4(b) by failing properly to communicate with her clients.

Under my view of the facts, the respondent made no intentional misrepresentations to Mignanelli, either that she had filed the Petition, or that it had been heard. I therefore conclude that bar counsel has not proved the Rule 4.1 or 8.4(c) violations charged in ¶¶ 48 and 50. Having failed to find these proved, I cannot agree that there was any prejudice to the administration of justice (Rule 8.4(d)).

Turning to Count Two, my disagreement with the majority begins at ¶ 64. As noted, I would have found both that the respondent mailed the Petition to the court, and that it was mailed back to her with a sticky note. I found the respondent's testimony on these points to be sufficiently credible to overcome the lack of documentary evidence. On this record, I could not determine what the Probate Court's practice had been at the relevant time with reference to non-

compliant filings; there was evidence that up to thirty-five different people took turns opening the mail, that different people followed different protocols, and that the office was only partially staffed due to the COVID-19 pandemic. See Tr. 2:9-13 (Benoit); Tr. 2:22-23 (Clarke).

In this context, I found credible the respondent's testimony that she mailed the package and that the court returned it with a sticky note. The "sticky note" detail was supported by the testimony of Katie Benoit, an experienced employee in the Probate and Family Court. Benoit agreed that someone could put a sticky note on a filing and send it back. Tr. 2:13 (Benoit). In addition, Clark testified that an employee "could have sent out a deficiency or an email or made a phone call. We just don't have a record of it." Tr. 2:30. This supports my view that a petition could have been received and sent back with a sticky but no records were kept with some employees. This is consistent with the respondent's testimony. I found more likely than not the respondent's explanation that her filing had been returned to her.

It follows logically from my analysis that I do not believe that bar counsel proved any of the Count Two rule violations.

I join with my colleagues as to their findings in mitigation listed at ¶¶ 82-95. I write separately to emphasize the significant mitigation I find as to the respondent's actions. I would find that any misconduct that occurred was due to mitigating circumstances over an extended period of time in the respondent's personal life, among them her husband getting arrested and losing his job and the fact that she was the sole provider; her husband harassing her at work; her husband's secret life on the internet; and her allergic reaction to a cut in her finger. In my view, all of these would cause great shame, anxiety, stress, and self-blame that would have affected the respondent's mental state and caused her actions be out of character. Some women won't ask for help or admit they need help.

My view is corroborated by the testimony of the respondent's sister, who testified that the respondent was, "like a different person," withdrawn, quiet and unhappy. She would cry often. (Hearing Report, ¶ 92). In my view, all of these circumstances could have been so overwhelming that the respondent did not refile the petition in person after she received it back with a note that it had no filing fee. The respondent was just not on top of things, she was "drowning in her home life . . . [and] just couldn't concentrate." Tr. 1:131 (Respondent).

With the exception of ¶ 98, concerning harm to Mignanelli, I also agree with my colleagues' findings and analysis on the factors in aggravation. I do not agree that there was harm to Mignanelli. Mignanelli is equally responsible for filing the Petition since the sisters hired and paid him. The sisters did not pay the respondent. Communication about the petition was between the sisters and Mignanelli except for the initial meeting with the respondent.

I would find that he should have acted sooner (e.g., April 11, or April 21, 2022 after the respondent had failed to respond to him or his paralegal) to determine what was going on in the Probate Court. He was the main point of contact for the sisters. He is an attorney admitted to practice in Massachusetts. He could have called the Clerk's Office long before he did, to determine the status of the respondent's alleged filing and to confirm the information the respondent had given him.

There was a sense of urgency that they be the first to file the petition, in order for someone to have access and manage the properties, yet Mignanelli according to his testimony went on an extended vacation from June 14, to July 5, 2022, took Fridays off in July and August and left the responsibility with his paralegal to keep following up. See Tr. 1:53-60 (Mignanelli). Mignanelli knew by July 21, 2022 that another party had filed something, see Ex. 18 (035), yet he waited until mid-August to finally contact the court. He could have averted or mitigated at

least some of the financial damage by proactively trying to determine precisely what was going on. And once it was determined that the respondent had failed to file the Petition, Mignanelli should have offered the sisters to pay for another lawyer on their behalf or a refund to avoid a lawsuit.

In addition, I find it inconsistent that a Sheriff would come to Mignanelli's office and threaten to throw him in jail if he had paid the judgment fine right away. Most courts will give a deadline and if that date is not met, then a sheriff will be scheduled to come out to collect the fine.

As to the proper disposition, I conclude that under Matter of Kane, the respondent's conduct warrants at least a public reprimand, if not a short suspension. Her repeated failures to respond to Mignanelli's office, and her ultimate failure to properly complete the discrete and straightforward task she was hired to do, constitute a pattern of neglect. See Matter of Foster, supra, 492 Mass. at 794 (defining "pattern of neglect" as several instances of misconduct or a protracted period of neglect). I agree with my colleagues' findings that there are a number of aggravating factors, including harm to the sisters. Under Kane, this could nudge the sanction into the short suspension range. However, in light of the significant mitigation I have found, I believe a public reprimand is the appropriate sanction for the respondent's misconduct.

Dated: April 28, 2025

Respectfully submitted,

Regina Au

Regina Au, Member