People v. G. Keith Lewis. 21PDJ076. August 29, 2022.

Following a hearing on the sanctions, a hearing board suspended G. Keith Lewis (attorney registration number 43908) for one year and one day. The suspension, which takes effect on November 23, 2022, takes into account significant aggravating factors. To be reinstated to the practice of law in Colorado, Lewis must prove by clear and convincing evidence that he has been rehabilitated, has complied with all disciplinary orders and rules, and is fit to practice law.

From at least September 2019 through October 2020, Lewis failed to pay his child support obligation under a Maryland support order. Nor did he have a pending motion to modify the order during that time. Even so, in April 2020, Lewis falsely attested on his 2020 Colorado attorney registration statement that he was in compliance with his child support obligation.

Through his conduct, Lewis violated Md. RPC 19-303.4(c) (a lawyer must not knowingly disobey an obligation under the rules of a tribunal) and Colo. RPC 8.4(c) (it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation). Disciplinary authorities charged the violation of the Maryland rule of professional conduct under the choice of law provision found in Colo. RPC 8.5(b).

The case file is public per C.R.C.P. 242.41(a). Please see the full opinion below.

SUPREME COURT, STATE OF COLORADO ORIGINAL PROCEEDING IN DISCIPLINE BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE 1300 BROADWAY, SUITE 250 DENVER, CO 80203	
Complainant: THE PEOPLE OF THE STATE OF COLORADO **Respondent:** G. KEITH LEWIS, #43908	Case Number: **21PDJ076**
AMENDED OPINION IMPOSING SANCTIONS UNDER C.R.C.P. 242.31(a)[1]	

Between at least September 2019 and October 2020, G. Keith Lewis ("Respondent") knowingly disobeyed a Maryland child support order. Even so, in April 2020, he falsely stated on his 2020 Colorado attorney registration statement that he was in compliance with the child support order. This disciplinary proceeding followed, during which Respondent aggravated his misconduct by denying factual allegations that he knew or should have known to be true. He thereby obstructed and prolonged the proceeding. At the disciplinary hearing in this matter, Respondent did not acknowledge the wrongful nature of his conduct and instead repeatedly disputed the lawfulness of the proceeding, further aggravating his underlying conduct. Respondent's misconduct warrants a one-year-and-one-day suspension.

I. PROCEDURAL HISTORY

On October 28, 2021, Jacob M. Vos of the Office of Attorney Regulation Counsel ("the People") filed a complaint against Respondent with the Office of the Presiding Disciplinary Judge ("the Court"), alleging violations of Maryland Rule of Professional Conduct 19-303.4(c) (Claim I) and Colorado Rule of Professional Conduct 8.4(c) (Claim II). The next month, Respondent filed an "Answer and Motion for Summary Judgment." But Respondent's answer and motion did not comport with C.R.C.P. 242.26 or the applicable standards for such motions. On December 14, 2021, the Court struck the filing, directed Respondent to answer the complaint, and set the matter for a hearing.[2] Rather than answer, Respondent filed a "Motion to Dismiss for Failure to State a Claim Under Rule 12(b)(5)." The Court denied the motion to dismiss on January 24, 2022, disagreeing with Respondent that the People could not establish their claims as a matter of law. The Court rejected Respondent's arguments that it was without jurisdiction to

[1] The opinion dated August 29, 2022, is amended under C.R.C.P. 59(a)(3) to excise factual findings related to Respondent's 2021 Colorado attorney registration statement. *See* "Order Granting Motion to Amend Findings Under C.R.C.P. 59(a)(3)" (Sept. 23, 2022).

[2] *See* "Scheduling Order" § VII.3 (Dec. 14, 2021).

assess the People's first claim alleging a violation of the Maryland Rules of Professional Conduct; that the Full Faith and Credit Clause of the Fourteen Amendment barred the People's first claim; and that the disciplinary proceeding impinged on his parental and due process rights. The Court ordered Respondent to answer the complaint. Respondent did so on February 7, 2022.

In his answer, Respondent raised affirmative defenses based on the same jurisdictional and constitutional arguments set forth in his motion to dismiss and rejected by the Court.[3] He baldly denied each of the People's general allegations, including demonstrably true factual assertions. For instance, Respondent denied that he had entered into a settlement agreement with his ex-spouse in April 2021, that the Maryland court approved the agreement, and that the agreement stated that Respondent owed no arrears.[4] But his own exhibit attached to his answer supported the People's factual assertions.[5]

Respondent responded to the People's discovery in like fashion, denying all but one of the People's requests for admissions, including their requests that he admit the accuracy of copies of filings from his child support case and copies of his child support payment records. Respondent did not provide a basis for the denials other than to lodge a general objection stating that the requests were not reasonably calculated to lead to admissible evidence and that the People sought to "reinterpret [the child support order] in a way that is contrary to the U.S. Constitution and [Maryland's and Colorado's] laws."[6] Soon after, the Court granted the People's motion to extend discovery deadlines and to continue the hearing that was set for March 2022, finding that "the People had no meaningful opportunity to learn the reasons for Respondent's denials" and reasoning that the People would be unfairly disadvantaged at the hearing without more time for discovery.[7]

The hearing was reset for July 7 and 8, 2022. On February 25, 2022, the People moved to compel Respondent's deposition but withdrew their motion after Respondent stipulated to a set of facts and exhibits that the People had requested in discovery.[8] The stipulation included facts and exhibits that Respondent previously denied in his answer and discovery responses.[9] On March 15, 2022, the People moved for summary judgment on their two claims. Respondent filed a response and cross-motion for summary judgment two weeks later, again asserting the same

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[3] Throughout this case, Respondent reiterated challenges to the People's claims and the Court's authority to adjudicate them, requiring the Court to address and resolve Respondent's duplicative arguments over the course of the proceeding. *See, e.g.*, "Order Denying Respondent's Motion to Dismiss Under C.R.C.P. 12(b)(5)" (Jan. 24, 2022); "Order Granting Complainant's Motion for Summary Judgment and Denying Respondent's Cross-Motion for Summary Judgment" (Apr. 22, 2022); "Order Denying Respondent's Motions for Clarification and to Stay Further Proceedings Pending Appeal" (May 25, 2022).

[4] Compl. at 2 ¶¶ 17-18; Answer at 3 ¶¶ 17-18.

[5] *See* Answer at Ex. A (June 2021 Maryland order approving Respondent's April 22, 2021, settlement agreement stating that Respondent owed no arrears).

[6] Ex. 2 at 3.

[7] "Order Granting People's Motion to Continue Hearing and to Extend Deadlines for Discovery and Dispositive Motions" (Feb. 17, 2022).

[8] *See* Joint Stip. (Mar. 11, 2022).

[9] *Compare* Stip. Facts ¶ f *with* Compl. at 2 ¶¶ 10-11, Answer at 3 ¶¶ 10-11; *compare* Stip. Facts ¶ a *with* Ex. 1 at 3 ¶ 2, Ex. 2 at 3 ¶ 2.

legal arguments from the motion to dismiss that the Court had already denied. On April 22, 2022, the Court granted the People's motion for summary judgment, denied Respondent's cross-motion, and converted the disciplinary hearing to a one-day hearing on the sanctions.

On July 8, 2022, a Hearing Board comprising Presiding Disciplinary Judge Bryon M. Large ("the PDJ")[10] and lawyers John M. Lebsack and Mickey W. Smith held a remote hearing on the sanctions under C.R.C.P. 242.30 via the Zoom videoconferencing platform. Vos represented the People, and Respondent appeared pro se. The Hearing Board received testimony from Respondent,[11] Catherine M. Torres, and Elvia Mondragon. The PDJ admitted the parties' stipulated facts a-k, stipulated exhibits S1-S9, and the People's exhibits 1-4.[12]

II. FINDINGS OF FACT

The findings of fact regarding Respondent's rule violations are drawn from the undisputed material facts set forth in the Court's summary judgment order. Respondent was admitted to the practice of law in Colorado on October 24, 2011, under attorney registration number 43908. He is thus subject to the jurisdiction of the Colorado Supreme Court and the Hearing Board in this disciplinary proceeding.

On June 4, 2018, the Montgomery County Maryland Circuit Court entered an order in family law case number 145714-FL ("June 2018 order").[13] The order required Respondent to pay $1,275.00 per month in child support to his former spouse, Catherine Torres.[14] Respondent complied with the June 2018 order until he moved to Maryland in March 2019, demonstrating his actual knowledge of the Maryland order.[15] The order was unmodified between its entry on June 4, 2018, and the entry of a later order on June 4, 2021 ("June 2021 order").[16] The June 2018 order was in full force and effect until June 3, 2021.[17]

Shortly after Respondent moved to Maryland in March 2019, he filed a motion to modify the June 2018 order due to a claimed reduction in income.[18] On September 9, 2019, the

[10] The Colorado Supreme Court appointed Large as the Presiding Disciplinary Judge effective June 1, 2022.

[11] Respondent chose not to present a case at the hearing on the sanctions. His testimony is thus limited to the People's direct examination.

[12] The PDJ admitted exhibit 4, a copy of Respondent's 2021 Colorado attorney registration statement, during testimony from the Colorado Supreme Court's clerk of attorney registration, Mondragon. After the opinion issued, however, the People moved to amend the opinion, reasoning that exhibit 4 contains an inaccuracy. *See* "Order Granting Motion to Amend Findings Under C.R.C.P. 59(a)(3)" (Sept. 23, 2022). Thus, we attribute no weight to exhibit 4.

[13] Ex. S1.

[14] Ex. S1 at 27.

[15] Stip. Facts ¶ c; Ex. S2.

[16] Ex. S4.

[17] Ex. S4.

[18] Ex. S2. At the hearing, Respondent testified that he accepted a job as a reporter that paid approximately half of his salary as a lawyer.

Maryland court dismissed his motion to modify child support for failure to prosecute.[19] Between April 1, 2019, and June 3, 2021, Respondent made just two payments toward his support obligations: he paid $390.00 on April 13, 2019, and he paid $1,065.00 on May 5, 2019, for a total of $1,455.00.[20]

On April 22, 2020, Respondent submitted his 2020 Colorado attorney registration statement to the Colorado Supreme Court. On this statement, Respondent represented that he was in compliance with his child support obligations.[21] At the time, however, Respondent was not in compliance with his court-ordered payments and had been out of compliance since April 2019.[22]

On October 16, 2020, Respondent refiled his motion to modify the June 2018 order.[23] Torres filed an answer, noting Respondent's support deficiencies and alleging that Respondent owed approximately $25,000.00 in back child support.[24] In April 2021 Respondent and Torres entered a settlement agreement, which they later supplemented.[25] The Maryland court approved the stipulation in the June 2021 order.[26] The stipulation and order provided that Respondent owed no child support arrearages and that his support obligation moving forward would be $500.00 per month.[27] The June 2021 order did not retroactively alter the June 2018 order.[28] Nor did the Maryland court enter the June 2021 order *nunc pro tunc*.[29]

III. RULE VIOLATIONS ESTABLISHED ON SUMMARY JUDGMENT

On summary judgment, the Court concluded as a matter of law that Respondent violated Md. RPC 19-303.4(c) and Colo. RPC 8.4(c).

The Court determined that Respondent failed to comply with Md. RPC 19-303.4(c), which provides that a lawyer shall not "knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists."[30] Respondent violated the rule because he was aware that the June 2018 order directed him to pay $1,275.00 per month in child support, but he nevertheless failed to pay the ordered amount between at

[19] Stip. Facts ¶ e; Ex. S4 at 45.
[20] Stip. Facts ¶ k; Ex. 3.
[21] Stip. Facts ¶ f.
[22] Stip. Facts ¶ k; Ex. 3.
[23] Ex. S5. The motion was dated for October 9, 2020, but it was docketed on October 16, 2020.
[24] Ex. S6.
[25] Exs. S7-S8.
[26] Ex. S9.
[27] Exs. S7-S9.
[28] Exs. S7-S9.
[29] Exs. S7-S9.
[30] The People charged the Maryland rule under the choice of law provision found in Colo. RPC 8.5(b), which states that "[i]n any exercise of the disciplinary authority of this jurisdiction, the rules of professional conduct to be applied shall be as follows: (1) for conduct in connection with a matter pending before a tribunal, the rules of the jurisdiction in which the tribunal sits, unless the rules of the tribunal provide otherwise . . . ."

least September 2019 and October 2020, during which time he had no pending motion to modify the order.

The Court disagreed with Respondent that the June 2021 order operated retroactively to modify Respondent's child support obligation to the date he filed his first motion to modify.[31] The Court thus concluded that the June 2021 order did not exempt Respondent from his obligation to comply with the June 2018 order before the later order took effect.

Further, the Court rejected Respondent's defense that the People's first claim encroached on the Maryland court's exclusive authority to adjudicate Respondent's child support case.[32] Rather, the Court found, the People's action sought to hold Respondent to account for failing to comply with the June 2018 order. The Court found that the People's case did not conflict with the June 2021 order modifying Respondent's child support obligation because that order neither countermanded nor retroactively changed the terms of the June 2018 order.

The Court also entered summary judgment on the People's claim that Respondent violated Colo. RPC 8.4(c), which proscribes conduct involving dishonesty, fraud, deceit, or misrepresentation. The undisputed facts presented at summary judgment showed that beginning in April 2019 and continuing for approximately two years, Respondent did not pay child support as he was required to do under the June 2018 order. And during that time, in September 2019, the Maryland court dismissed Respondent's motion to modify his child support order. Even so, in April 2020 Respondent falsely attested on his 2020 Colorado attorney registration statement that he was in compliance with his child support obligation when he was not. The Court determined that these undisputed facts showed that Respondent attested to his compliance with his child support obligations even though he knew that he had not complied with the June 2018 order, thus violating Colo. RPC 8.4(c). The June 2021 order did not change the fact that as of the of submitting the April 2020 registration statement, Respondent was not in compliance with the June 2018 order. The June 2021 order eliminated the arrearages that had accrued by that time, and changed the amount of support going forward, but did not affect the effectiveness of the June 2018 order between the time of its entry and the entry of a new order in June 2021.

IV. SANCTIONS

[31] Respondent claimed that his refiled motion to modify "was eventually related back to the initial filing [by the Maryland court] . . . . The fact that 'no child support arrearages are owed' proves that was the case." Resp. and Cross-Mot. for Summ. J. at 3-4 ¶ 16. But Respondent never provided facts or legal authority to support those contentions.

[32] Respondent theorized that the People's "complaint . . . directly contradicts the outcome in the order from the [Maryland] [c]ourt with exclusive authority to approve [his] modification request," thereby failing to accord full faith and credit to the 2021 Maryland order. Resp. and Cross-Mot. for Summ. J. at 2 ¶ 4. He reiterated this theory at the hearing on the sanctions. But this disciplinary action does not interfere with either of the Maryland child support orders, and the Court exercises jurisdiction only over Respondent as a Colorado-licensed lawyer and over his license to practice law, not over his child support orders.

The American Bar Association *Standards for Imposing Lawyer Sanctions* ("ABA *Standards*")[33] and Colorado Supreme Court case law guide the imposition of sanctions for lawyer misconduct.[34] When imposing a sanction after a finding of lawyer misconduct, the Hearing Board must consider the duty the lawyer violated, the lawyer's mental state, and the actual or potential injury caused by the lawyer's misconduct. These three variables yield a presumptive sanction that the Hearing Board may then adjust based on aggravating and mitigating factors.

ABA *Standard* 3.0 – Duty, Mental State, and Injury

Duty. By disobeying the Maryland court's June 2018 child support order, Respondent violated his duty as an officer of the court to uphold the legal system. He also violated his duty of candor and the duties he owes as a legal professional when he falsely stated on his 2020 Colorado attorney registration statement that he was in compliance with the child support order.

Mental State. The summary judgment order in this case established that Respondent acted with a knowing mental state when he violated Md. RPC 19-303.4(c). That order concluded that between at least September 2019 and October 2020, Respondent did not meet his child support obligation under the June 2018 order, even though he knew of the order.[35] Because Respondent knew that had not complied with the June 2018 order, we also find that he acted knowingly when, in April 2020, he falsely marked on his attorney registration statement that he was in compliance with his child support obligation. He made this false representation six months before he refiled his motion to modify and a year before Torres agreed to waive his arrears.

At the hearing, Respondent insisted that he was never out of compliance with his child support obligation and denied that he engaged in any misconduct. Notwithstanding that assertion, Respondent also complained that Colorado's attorney registration statement does not account for modification actions. We interpret this argument as suggesting that when Respondent completed the 2020 attorney registration statement, he believed that he had a pending motion to modify and thus was not consciously aware that he was in breach of his child support obligation. We cannot credit that assertion because when Respondent completed his attorney registration statement in April 2020, he knew of the June 2018 order; he knew that he had not made child support payments under that order since April 2019; he knew that the Maryland court had dismissed his motion to modify that order in September 2019; and he knew there was no pending motion to modify. Moreover, Respondent could *not* have known in April 2020 that Torres would later agree to waive his arrears or that the Maryland court would approve that agreement.

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[33] Found in ABA *Annotated Standards for Imposing Lawyer Sanctions* (2d ed. 2019).

[34] *See In re Roose*, 69 P.3d 43, 46-47 (Colo. 2003).

[35] *See* ABA *Annotated Standards* at 135 (defining knowledge as the conscious awareness of the nature or attendant circumstances of the conduct but without the conscious objective or purpose to accomplish a particular result) (quotations and citation omitted).

The People urge us to find that Respondent intentionally misrepresented on his 2020 Colorado attorney registration statement that he was compliant with his child support obligation. The People contend that Respondent offered no evidence showing that his misrepresentation was somehow inadvertent. It follows, they reason, that Respondent intended to hide his noncompliance and avoid disciplinary action against him. But we cannot find by clear and convincing evidence that Respondent acted with that aim.[36] We thus decline the People's invitation to infer intent in Respondent's misrepresentation on the registration statement.

Injury. Respondent was approximately $25,000.00 in child support arrears when the parties stipulated in April 2021 to waive the arrearage. Torres testified that Respondent's failure to pay the child support caused her to save less money for their daughter's college fund. She also said, however, that neither she nor the child experienced any immediate financial hardship as a result of Respondent's failure to pay. We therefore find that Respondent caused his daughter actual harm by depriving her of court-ordered support to which she was entitled, but we also conclude that the harm was not significant.

By misrepresenting to the Colorado Supreme Court that he had complied with his child support orders, Respondent interfered with the Colorado Supreme Court's mandate to monitor lawyer compliance with support orders.[37] Respondent's misconduct thus harmed the legal system and the Colorado Supreme Court, which has an interest to ensure that Colorado-licensed lawyers follow child support orders to which they are subject. Respondent caused actual injury to the legal system in a second respect by failing to comply with the June 2018 order. Lawyers, as officers of the court, are expected to follow legal rules and court orders, so Respondent's failure to meet his court-ordered obligations reflects poorly on lawyers and the legal system in general.

ABA *Standards* 4.0-7.0 – Presumptive Sanction

Under the ABA *Standards*, the presumptive sanction for Respondent's violation of Md. RPC 19-303.4(c) and Colo. RPC 8.4(c) is suspension. ABA *Standard* 6.22 provides that suspension is generally appropriate when a lawyer knows or should know that the lawyer is violating a court order and causes injury or potential injury to a party. Further, Respondent's misconduct implicates ABA *Standard* 6.12, which calls for suspension when a lawyer knowingly makes a false statement to a court but does not intend to deceive the court, and actually or potentially injures a party or the proceeding. Finally, ABA *Standard* 7.2 states that suspension is generally appropriate when a lawyer knowingly engages in conduct that violates the lawyer's duty owed as a professional, thereby injuring or potentially injuring the legal system.

ABA *Standard* 9.0 – Aggravating and Mitigating Factors

[36] *See Roose*, 69 P.3d at 48 (stating that intent may not be presumed from proof that a lawyer's misconduct was knowing, but instead must be separately proved by clear and convincing evidence).
[37] *See* C.R.C.P. 227(A)(2)(a)(4).

Aggravating factors include any considerations that justify an increase in the degree of the sanction to be imposed, while mitigating factors warrant a reduction in the severity of the sanction.[38] As explained below, we apply one factor in mitigation and six factors in aggravation, two of which carry substantial weight.

Aggravating Factors

Dishonest or Selfish Motive – 9.22(b): The People ask that we apply this factor, alleging that Respondent acted selfishly when he failed to pay the ordered child support for two years. Respondent explained at the hearing that he did not pay child support because he incurred extraordinary expenses when he relocated to Maryland to live closer to his daughter. Respondent also stated that his job in Maryland as a legal reporter paid about half of his former salary as a lawyer. The People did not challenge Respondent's testimony, nor did they introduce evidence to show that Respondent acted with a selfish motive. Further, we decline to deem Respondent's failure to pay child support inherently selfish. We do not find that Respondent acted with a selfish motive.

The People also contend that Respondent acted dishonestly when he falsely claimed on his 2020 Colorado attorney registration statement that he was compliant with his child support obligation. On this point we agree. Respondent's misrepresentation was fundamentally dishonest. We thus apply this aggravating factor and accord it moderate weight.

Multiple Offenses – 9.22(d): By violating the June 2018 child support order and then misrepresenting on his 2020 Colorado attorney registration statement that he was in compliance with his support orders, Respondent violated two rules of professional conduct. We apply this factor and accord it moderate weight.

Bad Faith Obstruction of the Disciplinary Proceeding by Intentionally Failing to Comply with Rules or Orders of the Disciplinary Agency – 9.22(e): The People urge us to apply this factor, arguing that Respondent obstructed the disciplinary proceeding and needlessly sapped judicial and prosecutorial resources by denying indisputably true facts in his answer and discovery responses. The People allege that Respondent "denied the undeniable" in bad faith in an attempt to forestall them from moving for judgment on the pleadings and summary judgment.

We agree. In his answer and again in his discovery responses, Respondent denied factual assertions that he knew or should have known to be true. He did so while asserting defenses and objections that had been addressed and rejected. Respondent's conduct unfairly prejudiced the People and precipitated the continuance of the hearing in this case. These actions, we find, obstructed the proceeding. Only when the People moved to compel Respondent's deposition did he stipulate to a set of facts and exhibits, including facts that he had denied earlier in the proceeding. We infer from these events that Respondent defended the case in bad faith.

[38] *See* ABA *Standards* 9.21 and 9.31.

At the hearing on the sanctions, Respondent disputed that he engaged in bad faith obstruction of this case. Retorting that the People's "allegations of bad faith are bad faith," Respondent maintained that "the law is clear" that, as the defendant in this matter, he can "deny anything he wants." We categorically reject Respondent's contention. As a licensed lawyer and officer of the court, Respondent has a duty to ensure that his pleadings are truthful and well-grounded in fact.[39] Respondent failed to articulate a valid legal basis to deny allegations and factual assertions that he knew or should have known to be true.

Finally, Respondent testified that he focused on civil litigation in the years he actively practiced. We attribute to him knowledge of his duty to be truthful in his filings—as we would to any lawyer—as well as an awareness of the effect his stonewalling would have on the People's effort to file a dispositive motion. We thus conclude that Respondent intended to obstruct the People's prosecution of this case, and we accord this factor substantial weight.[40]

Submission of False Evidence, False Statements, or Other Deceptive Practices During the Disciplinary Process – 9.22(f): The People contend that Respondent's unwarranted denials of their allegations also implicate this aggravating factor. As discussed above, we find that Respondent denied the People's allegations in an improper attempt to evade admitting factual assertions and to obstruct the People's attempts to resolve the claims by dispositive motion. But we do not find that Respondent engaged in this conduct in an effort to mislead the People.[41] We decline to twice penalize Respondent for the same conduct and do not apply this factor.[42]

Refusal to Acknowledge Wrongful Nature of Conduct – 9.22(g): We are troubled by Respondent's lack of remorse. Throughout the hearing on the sanctions, Respondent denied any misconduct, insisting that he "filed all the documents [he] needed to as soon as [he] needed to and paid every amount due as a matter of law." Respondent dismissed the validity of the Court's summary judgment order, stating that the order was "unconstitutionally in defiance of a Maryland judge's exclusive authority" over his child support matter, even though he knew or should have known that this proceeding does not affect his child support obligations. He also made false allegations that the People and the Hearing Board were engaged in an unlawful proceeding. Respondent accused the People of "perform[ing] legal gymnastics to convince unsuspecting licensing boards to break the law" and maintained that the Hearing Board sought to "look behind a Maryland judge's order to see if the Maryland judge got the law right."

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[39] *See* C.R.C.P. 11(a) ("The signature of an attorney constitutes a certificate by him that he has read the pleading; that to the best of his knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and warranted by existing law . . . and that it is not interposed for any improper purpose . . . ."); *see also People v. Trupp*, 51 P.3d 985, 988 (Colo. 2002) (determining that obligations under C.R.C.P. 11(a) apply in lawyer regulation proceedings, which must be conducted in accordance with the Colorado Rules of Civil Procedure).

[40] *See* ABA *Annotated Standards* at 465 (providing that the factor of bad faith obstruction of the disciplinary proceeding contains a bad faith requirement coupled with a mens rea requirement of intent).

[41] In reaching this conclusion, we note that Respondent premised his denials on affirmative defenses and objections and included in his own filings facts and exhibits which he later denied.

[42] *See In re Ivy*, 374 P.3d 374, 384 (Alaska 2016) (cautioning against the risk of double-counting against a lawyer when an aggravating factor turns on the same facts as the sanction or as other aggravators).

That Respondent has not accepted responsibility for his misconduct is especially concerning in light of his practice experience, which, he testified, included family law. We find wholly incredible that he is ignorant of the defects in his legal theories in this proceeding, particularly his position that the June 2021 order related back or otherwise operated with retroactive effect solely by dint of the Maryland court's approval of the settlement agreement waiving his arrears. So, too, are we skeptical that he has advanced in good faith the defense that the June 2021 order somehow justified or absolved his misrepresentation on his 2020 attorney registration statement. In any event, Respondent appeared to be invested in his legal theories to such a degree that he went beyond simply denying his own wrongdoing. Rather, Respondent accused disciplinary authorities of extrajudicial conduct. In all, Respondent's conduct during the hearing evinced his disregard for the lawyer disciplinary system and his failure to accept responsibility for his own misconduct. We thus apply this factor and accord it substantial weight.

Vulnerability of Victim – 9.22(h): Respondent did not pay the child support that was intended to benefit his minor child, who is properly considered a vulnerable victim.[43] Because Torres testified that the child experienced no significant consequences from the disruption in payments, however, we accord this factor only minimal weight.

Substantial Experience in the Practice of Law – 9.22(i): Respondent has been a Colorado-licensed lawyer since 2011.[44] At the hearing on the sanctions, he testified that he was admitted to practice in Georgia in 2008. His practice included civil litigation and family law. We therefore apply this factor and accord it moderate weight.

Mitigating Factors[45]

Absence of a Prior Disciplinary Record – 9.32(a): We apply this factor in mitigation and accord it moderate weight in recognition that Respondent has no record of prior discipline.

Character or Reputation – 9.32(g): At the hearing on the sanctions, Respondent asked that we consider as character evidence Torres's testimony that, during a period soon after their divorce, Respondent paid her amounts above that which he was required to provide in child support. But neither Respondent nor Torres explained why Respondent paid the additional child support, and Respondent did not describe how Torres's testimony establishes his good character or reputation. We therefore decline to apply this factor in mitigation.

Analysis Under ABA *Standards* and Case Law

[43] *See In re Green*, 982 P.2d 838, 839 (Colo. 1999) (noting that the hearing board deemed the respondent's children to be vulnerable victims when the respondent failed to comply with child support orders).

[44] Respondent testified that his Colorado license is currently inactive, though he did not recall when he transferred it to inactive status.

[45] The People argue against applying any mitigating factors in this case.

The Hearing Board observes the Colorado Supreme Court's directive to exercise discretion in imposing a sanction and to carefully apply aggravating and mitigating factors,[46] mindful that "individual circumstances make extremely problematic any meaningful comparison of discipline ultimately imposed in different cases.'"[47] Though prior cases can inform through analogy, the Hearing Board is charged with determining the appropriate sanction for a lawyer's misconduct on a case-by-case basis.[48]

The ABA *Standards* discussed above point to a presumptive sanction of a suspension equal to or greater than six months,[49] to be adjusted in light of the applicable aggravating and mitigating factors. Case law also calls for a suspension as the appropriate sanction when, as here, a lawyer knowingly fails to obey court orders and makes a knowing misrepresentation to a court.[50]

In *In re Roose*, for instance, the Colorado Supreme Court suspended a lawyer for one year and one day because the lawyer departed a courtroom proceeding despite the judge's order that she remain and because the lawyer falsely represented to the court of appeals that she was an appellant's court-appointed lawyer.[51] The *Roose* court held:

> In the absence of a finding of intent to obtain a benefit by disobeying the district court's order or to deceive the court of appeals, the appropriate sanction for both knowingly submitting materially false statements and knowingly violating a court order, as long as those acts caused at least some injury to a party or adverse effect on the legal proceeding, is suspension.[52]

Moreover, the lawyer did not appreciate the seriousness of her misconduct or acknowledge the hearing board's jurisdiction to discipline her, which the *Roose* court found to be "a serious matter, meriting a substantial period of suspension and a redetermination of [her] fitness before being permitted to again practice law in this jurisdiction."[53]

A lawyer's knowing misrepresentation to a tribunal, standing alone, also warrants a period of suspension. In *People v. Wotan*, for instance, a lawyer engaged in a range of

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[46] *See In re Attorney F.*, 2012 CO 57, ¶ 20; *see also In re Fischer*, 89 P.3d 817, 822 (Colo. 2004) (finding that a hearing board had overemphasized the presumptive sanction and undervalued the importance of mitigating factors in determining the needs of the public).

[47] *Attorney F.*, ¶ 20 (quoting *In re Rosen*, 198 P.3d 116, 121 (Colo. 2008)).

[48] *Id.* ¶ 15.

[49] *See* ABA *Standard* 2.3 ("Generally, suspension should be for a period of time equal to or greater than six months . . . .").

[50] In our view, Respondent's misrepresentation on his 2020 Colorado attorney registration statement was a misrepresentation to the Colorado Supreme Court because that tribunal mandates that Colorado-licensed lawyers complete the registration statements. *See generally* C.R.C.P. 227(A).

[51] 69 P.3d at 49.

[52] *Id.*

[53] 69 P.3d at 46.

misconduct that included filing a false certificate for review in a medical malpractice action.[54] Suspending the lawyer for one year and one day, the Colorado Supreme Court stated that the false filing "by itself would justify a period of suspension."[55]

Similarly, the Colorado Supreme Court has signaled that a lawyer's knowing disobedience of a court-ordered child support obligation is grounds for a significant suspension. In *People v. Hanks*, for instance, the Colorado Supreme Court imposed a one-year-and-one-day suspension when a lawyer willfully failed to pay child support and accumulated arrearages topping $55,000.00.[56] The *Hanks* court applied four aggravating factors that included a dishonest or selfish motive, a refusal to acknowledge the wrongfulness of the conduct, and the substantial experience in the practice of law.[57] The same sanction was levied in another matter, *People v. Green*, after the lawyer knowingly failed to pay over $11,000.00 in child support and over $22,000.00 in spousal support.[58] The *Green* court noted three aggravators: the lawyer's selfish motive, his refusal to acknowledge the wrongfulness of his conduct, and the vulnerability of the victims.[59]

We now turn to Respondent's misconduct. For more than two years, Respondent knowingly failed to meet his child support obligation under the June 2018 order. During most of that time, he had no motion to modify pending before the Maryland court. Meanwhile, he knowingly and falsely reported to the Colorado Supreme Court that he was in compliance with his child support obligations, frustrating that tribunal's mandate to ensure that Colorado-licensed lawyers adhere to child support orders and rules.

The ABA *Standards* and the cases discussed above suggest that suspension is the appropriate sanction here based on Respondent's two different types of misconduct. *Wotan*, for instance, instructs that Respondent's knowing misrepresentation on his 2020 attorney registration statement alone calls for a period of suspension. *Green* and *Hanks*, each with fewer

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[54] 944 P.2d 1257, 1263 (Colo. 1997).

[55] *Id.*

[56] 967 P.2d 144, 145 (Colo. 1998).

[57] *Id.* at 145.

[58] 982 P.2d at 839. The *Green* court ordered that the lawyer could reinstate before his one-year-and-one-day suspension expired and begin a three-year period of probation if the lawyer paid his past due support obligations or entered a court-approved payment plan to repay the arrears. *Id.* The *Green* court noted that disciplinary probation was not available at the time it decided *Hanks*. *Id.*

[59] *Id.* We also recognize that the Colorado Supreme Court has publicly censured lawyers who knowingly failed to obey child support orders where, like here, the lawyers faced no pending allegations of continuing noncompliance with child support orders during the disciplinary proceeding. In *People v. Primavera*, for instance, the Colorado Supreme Court approved the hearing board's recommendation to publicly censure a lawyer who knowingly disobeyed a child support order over a four-month period after the lawyer, in purging a finding of contempt, paid the arrears and the related attorneys' fees. 904 P.2d 883 at 885 (Colo. 1995). The Colorado Supreme Court noted that suspension was the presumptive sanction for the lawyer's misconduct, but it also concluded that the circumstances tended to mitigate the lawyer's misconduct. *Id.* The *Primavera* court applied two aggravators—prior admonitions and the substantial experience in law—against three mitigators, including a lack of a dishonest or selfish motive, the imposition of other penalties or sanctions, and cooperation in the disciplinary proceeding. *Id.* Here, in contrast, the significant aggravating factors do not justify a downward deviation from the presumptive sanction of suspension.

and, in our view, less egregious aggravators than this case, also support imposing some period of suspension for Respondent's knowing disobedience of the June 2018 order. In *Roose*, the lawyer disobeyed a trial court's order and was dishonest when practicing before the court of appeals, implicating the same duties that Respondent violated in this case. Further, the *Roose* court admonished the lawyer for failing to appreciate the serious nature of her conduct and for dismissing the authority of disciplinary bodies, concluding that her conduct warranted a suspension of one year and one day and the redetermination of her fitness to practice before she could be reinstated.

As for the appropriate length of the suspension, we conclude that *Roose*, along with the predominance of aggravating factors and lack of significant mitigating factors, weighs in favor of a period of suspension exceeding the presumptive six-month baseline. During this disciplinary case, Respondent intentionally blocked the People from discovery to which they were entitled and demonstrated no remorse for his actions, significantly aggravating his misconduct. In all, six aggravators exacerbate Respondent's misconduct; his clean disciplinary history is the only countervailing mitigating factor. Indeed, Respondent's misconduct, his lack of remorse, and his lack of respect for this disciplinary proceeding elicits in us the same concern the *Roose* court articulated. We thus determine that the appropriate sanction here is a suspension of one year and one day. Importantly, the suspension carries the appropriate and necessary requirement that Respondent petition for reinstatement under C.R.C.P. 242.39, under which he must demonstrate by clear and convincing evidence that he has rehabilitated from his misconduct, that he is fit to practice law, and that he is compliant with disciplinary and other orders.

V. CONCLUSION

A bedrock precept in our legal system is that lawyers, as officers of the court, must act with candor. Courts rely especially on lawyers to be honest, to conduct legal matters in good faith, and to follow court orders. Respondent failed to fulfill those duties when he disobeyed a Maryland court's child support order and falsely certified on his 2020 Colorado attorney registration statement that he had complied with the order. During this disciplinary proceeding, Respondent aggravated his misconduct by denying factual allegations that he knew or should have known to be true, thereby impeding the People's prosecution of this case. At the hearing on the sanctions, Respondent refused to acknowledge his misconduct; instead, he obstinately challenged the lawfulness of the proceeding. Respondent's conduct warrants a one-year-and-one-day period of suspension.

VI. ORDER

The Hearing Board therefore **ORDERS:**

1. **G. KEITH LEWIS**, attorney registration number **43908**, is **SUSPENDED** from the practice of law in Colorado for a period of **ONE YEAR AND ONE DAY**. The

suspension will take effect upon issuance of an "Order and Notice of Suspension."[60]

2. If Respondent wishes to seek reinstatement to the practice of law in Colorado after his suspension, he must file a petition for reinstatement under C.R.C.P. 242.39(b).

3. To the extent applicable, Respondent **MUST** promptly comply with C.R.C.P. 242.32(b)-(e), concerning winding up of affairs, notice to current clients, duties owed in litigation matters, and notice to other jurisdictions where he is licensed or otherwise authorized to practice law.

4. Within fourteen days of issuance of the "Order and Notice of Suspension," Respondent **MUST** file an affidavit with the Court under C.R.C.P. 242.32(f), attesting to his compliance with C.R.C.P. 242.32. As provided in C.R.C.P. 242.41(b)(5), lists of pending matters, lists of clients, and copies of client notices under C.R.C.P. 242.32(f) must be marked as confidential attachments and filed as separate documents from the affidavit.

DATED THIS 23rd DAY OF SEPTEMBER, 2022.
Nunc pro tunc to August 29, 2022.

_____
BRYON M. LARGE
PRESIDING DISCIPLINARY JUDGE

/s/ John M. Lebsack
_____
JOHN M. LEBSACK
HEARING BOARD MEMBER

/s/ Mickey W. Smith
_____
MICKEY W. SMITH
HEARING BOARD MEMBER

[60] In general, an order and notice of sanction will issue thirty-five days after a decision is entered under C.R.C.P. 242.31(a)(6). In some instances, the order and notice may issue later than the thirty-five days by operation of C.R.C.P. 242.35, C.R.C.P. 59, or other applicable rules.