

People v. Patrick Wake. 22PDJ061. March 23, 2023.

After entering an order of default for failure to participate in the disciplinary proceeding, the Presiding Disciplinary Judge held a sanctions hearing and disbarred Patrick Wake (Wyoming attorney registration number 7-5421) from the practice of law in Colorado, effective April 27, 2023. In addition, Wake must pay \$23,895.00 in restitution to five former clients.

Wake, who is licensed to practice law in Wyoming but not in Colorado, maintained an immigration law practice in Aurora. On February 3, 2021, Wake was suspended for one year and one day in disciplinary case number 20PDJ038.

In one matter, a client paid Wake \$5,000.00 to represent the client in an immigration case. Wake did not put the client's money in a trust account. The client had a hearing in April 2021, but Wake did not tell the client that he was suspended until the day before the hearing. Though Wake performed no substantive work on the client's case, he failed to return the client's unearned fees and did not provide the client with an accounting of the funds.

In a second matter, a client paid Wake \$600.00 in January 2021 to file a work authorization renewal for the client. Wake never filed the work authorization and did not respond to his client's attempts to communicate. Nor did he inform his client of his suspension. Wake failed to hold the client's funds in trust and did not refund any unearned portion of the client's money.

Beginning in April 2019, a third client paid Wake \$6,000.00 in installments to represent the client in an asylum case. Wake did not put the client's funds in a trust account, and he neither filed the asylum application for the client nor refunded the client's unearned fee. In addition, Wake never notified the client of his suspension, and he failed to return the client's file and paperwork—including a copy of the client's passport—after his suspension.

In a fourth matter, Wake failed to file an asylum application for a client but did not refund the unearned portion of the client's retainer, which Wake did not keep in a trust account. Wake did not inform the client of his suspension, and he failed to respond to the client's communications after July 2021.

In another matter, after Wake appealed the denial of a client's asylum application, the client received a notice that immigration authorities filed a motion for summary affirmance in the appeal. In May 2021 the client sent Wake a picture of the notice, which required a timely response. Wake, who never notified the client about his suspension, told the client that the notice was a summary of the opposing party's answer to the appeal and to await a decision from the court.

In a sixth case, a couple paid Wake \$495.00 in June 2019 to assist with a work authorization renewal. Wake failed to hold the clients' money in trust and never applied for the renewal. After the work authorization for one of the clients expired in December 2019, the clients had difficulty contacting Wake. A hearing in the clients' case was eventually set for April 2022. The day before

the hearing, the clients spoke with Wake, who told them that he was suspended and therefore could not represent them at the hearing. Wake told the clients that he would refund their fee and return their file, but he never followed up or provided a refund.

Wake's conduct violated Colo. RPC 1.1 (a lawyer must provide competent representation to a client); Colo. RPC 1.3 (a lawyer must act with reasonable diligence and promptness in representing a client); Colo. RPC 1.4(a)(3) (a lawyer must keep the client reasonably informed about the status of the matter); RPC 1.4(a)(4) (a lawyer must promptly comply with reasonable requests for information); Colo. RPC 1.4(a)(5) (a lawyer must consult with the client regarding limitations on the lawyer's conduct); Colo. RPC 1.15A(a) (a lawyer must hold property of clients or third persons that is in the lawyer's possession in connection with a representation separate from the lawyer's own property); Colo. RPC 1.16(d) (on termination of the representation, a lawyer must take steps to the extent reasonably practicable to protect a client's interests, such as refunding any advance payment of fee or expense that has not been earned or incurred); Colo. RPC 3.4(c) (a lawyer must 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); Colo. RPC 8.1(b) (a lawyer must not knowingly fail to respond to a lawful demand for information from a disciplinary authority); and Colo. RPC 8.4(c) (it is professional misconduct for a lawyer to engage in conduct involving dishonesty, deceit, fraud or misrepresentation).

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

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| 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: PATRICK WAKE | Case Number: 22PDJ061 |
| OPINION IMPOSING SANCTIONS UNDER C.R.C.P. 242.31(b) | |

Patrick Wake ("Respondent"), a Wyoming lawyer who has been suspended from the practice of law in Colorado, failed to wind down his law practice in Colorado, failed to notify his clients of his suspension, and failed to reimburse his clients for fees he did not earn. Respondent then abandoned his clients, many of whom were immigrants facing deportation. He also failed to participate in this disciplinary proceeding. Respondent's misconduct warrants disbarment.

I. PROCEDURAL HISTORY

On October 28, 2022, Alan C. Obye of the Office of Attorney Regulation Counsel ("the People") filed a complaint with the Presiding Disciplinary Judge ("the Court"). Respondent did not answer or otherwise evince an intention to participate in the proceeding. On December 20, 2022, the People moved for entry of default. Respondent did not respond, and the Court granted the People's default motion on January 11, 2023, deeming all allegations and claims in the complaint admitted.¹ After setting the case for a sanctions hearing, the Court issued on January 20, 2023, a "Notice of Sanctions Hearing Under C.R.C.P. 242.27," advising Respondent of his right to attend the sanctions hearing, to be represented by counsel at his own expense, to cross-examine witnesses, and to present argument and evidence about the appropriate sanction.

On February 17, 2023, the Court held a sanctions hearing under C.R.C.P. 242.27(b) and 242.30. Obye represented the People; Respondent did not appear. During the hearing, the

¹ C.R.C.P. 242.27(a). Correcting a clerical error, the Court issued an amended order granting default on January 17, 2023, *nunc pro tunc* to January 11, 2023.

Court admitted the People's exhibits 1-3 into evidence it also heard testimony from Respondent's clients E.G., A.C., C.P., and from lawyer Leah Rosenberg.²

II. ESTABLISHED FACTS AND RULE VIOLATIONS

The Court adopts and incorporates by reference the facts of this case, as fully detailed in the admitted complaint. Respondent was admitted to practice law in Wyoming on November 18, 2014. He is not licensed or otherwise authorized to practice law by the Colorado Supreme Court. At all times relevant to the matters described below, Respondent practiced immigration law. As part of his immigration practice, he maintained an office in Colorado, where he provided and offered to provide legal services in Colorado. He is thus subject to the jurisdiction of the Colorado Supreme Court and the Court in this disciplinary proceeding.³

R.D.C. Matter

R.D.C. hired Respondent to represent him in an immigration matter and signed a fee agreement on August 12, 2019. The fee agreement provided for a \$7,000.00 flat fee for "removal defense – all forms of relief possible."⁴ The work was to include "client meetings, preparation of all applicable forms relating to initial adjustment of status[,] submission of forms, preparation for any response or requests for evidence."⁵ The agreement stated that the fee "does not include any appeals or reconsiderations of any denial decision, however, if the client chooses, they may retain the Law Office of Pacheco and Wake again."⁶ The fee agreement did not contain benchmarks or any other indicator of when the fee would be earned. The fee agreement provided that if the client terminated the representation in writing, the client would be charged for work completed at \$500.00 per hour for Respondent's time, \$300.00 per hour for associate lawyer time, and \$150.00 per hour for paralegal time.

R.D.C. paid Respondent \$2,500.00 on August 12, 2019, leaving a remaining balance of \$4,500.00, which he was to pay over nine installments of \$500.00 per month under the terms of the fee agreement. Respondent's office later sent R.D.C. an invoice, dated November 2019, showing that R.D.C. had paid \$3,500.00 and owed \$3,500.00. Respondent did not maintain R.D.C.'s retainer in a trust account.

² The People request that the Court use initials for Respondent's clients in this opinion. The People read the clients' full names into the record at the sanctions hearing.

³ See C.R.C.P. 242.1(a)(2) ("Jurisdiction under this rule exists over . . . [a] lawyer not admitted to practice law in Colorado who provides or offers to provide any legal services in Colorado, including a lawyer who practices in Colorado pursuant to federal or tribal law."); Colo. RPC 8.5(a) ("A lawyer not admitted in this jurisdiction is also subject to the disciplinary authority of this jurisdiction if the lawyer provides or offers to provide any legal services in this jurisdiction.").

⁴ Compl. ¶ 12.

⁵ Compl. ¶ 8.

⁶ Compl. ¶ 8.

Respondent was suspended from the practice of law on February 3, 2021, in disciplinary case number 20PDJ038. Respondent's office sent R.D.C. an invoice on February 18, 2021, showing that R.D.C. had paid a total of \$5,000.00. Respondent did not inform R.D.C. of his disciplinary suspension in case number 20PDJ038 until the day before the master calendar hearing, which was set for April 21, 2021. R.D.C. appeared at that hearing pro se and informed the court that Respondent was suspended.

Respondent told R.D.C. that he would provide a partial refund, since he had not earned the entire fee, and that he would provide an accounting. Respondent never provided R.D.C. any refund or accounting. R.D.C. was not able to contact Respondent after the April 2021 master calendar hearing. Respondent did not perform any substantive work of value on R.D.C.'s case.

Through this misconduct, Respondent violated Colo. RPC 1.3 (a lawyer must act with reasonable diligence and promptness in representing a client); Colo. RPC 1.4(a)(3) (a lawyer must keep the client reasonably informed about the status of the matter); Colo. RPC 1.4(a)(5) (a lawyer must consult with the client regarding limitations on the lawyer's conduct); Colo. RPC 1.15A(a) (a lawyer must hold property of clients or third persons that is in the lawyer's possession in connection with a representation separate from the lawyer's own property); Colo. RPC 1.16(d) (on termination of the representation, a lawyer must take steps to the extent reasonably practicable to protect a client's interests, such as refunding any advance payment of fee or expense that has not been earned or incurred); Colo. RPC 3.4(c) (a lawyer must 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); and Colo. RPC 8.4(c) (it is professional misconduct for a lawyer to engage in conduct involving dishonesty, deceit, fraud or misrepresentation).

E.G.M. Matter

E.G.M. hired Respondent on June 28, 2017, to represent him in an asylum case. E.G.M. paid Respondent a \$5,000.00 retainer around June 28, 2017. Respondent provided E.G.M. a fee agreement, which defined the scope of representation as "removal hearings and asylum" and which stated, "[t]his fee includes the following services: client meetings, preparation of all applicable forms relating to initial adjustment of status, submission of forms, preparation for any response or requests for evidence."⁷ The fee agreement provided for a \$5,000.00 flat fee, with \$1,000.00 to be paid as a "down payment" and \$500.00 monthly payments thereafter. E.G.M. ultimately paid the full \$5,000.00 retainer. E.G.M. communicated with Respondent's office mainly by telephone, and mainly with Respondent's assistant, Joanna Pacheco.

Respondent appeared with E.G.M. at an immigration hearing on May 2, 2019. He also filed E.G.M.'s asylum application and an initial work authorization application. E.G.M. paid Respondent \$600.00 for a work authorization renewal on January 5, 2021, which was in addition to the \$5,000.00 he had already paid Respondent. Respondent agreed to file the work authorization renewal that E.G.M. paid for. After January 5, 2021, E.G.M. did not receive any

⁷ Compl. ¶ 40.

updates or notices that his work authorization had been renewed. Respondent did not file the work authorization renewal on E.G.M.'s behalf.

Respondent did not maintain in a trust account E.G.M.'s \$600.00 payment for the work authorization renewal. Although Respondent had a COLTAF trust account, Respondent's trust account balance fell below \$600.00 by June 2021 and fell to zero by March 2022.

After January 2021, E.G.M. was unable to get in touch with Respondent. He called, left messages, and attempted to visit Respondent's office many times without success.

Respondent's suspension in case number 20PDJ038 took effect February 3, 2021. In October 2021 E.G.M. researched Respondent and discovered that he was suspended. Respondent never notified E.G.M. of his suspension. Respondent never refunded to E.G.M. any unearned portion of his retainer or payment for costs. E.G.M.'s asylum case remains pending. E.G.M. is now pro se.

Through this conduct, Respondent violated Colo. RPC 1.3; Colo. RPC 1.4(a)(3); Colo. RPC 1.4(a)(4) (a lawyer must promptly comply with reasonable requests for information); Colo. RPC 1.4(a)(5); Colo. RPC 1.15A(a); Colo. RPC 1.16(d); Colo. RPC 3.4(c); and Colo. RPC 8.4(c).

A.C. Matter

A.C. hired Respondent to represent him in an asylum case on April 30, 2019. Respondent agreed to represent A.C. through the end of his case. A.C. paid Respondent a total of \$6,000.00: \$1,000.00 up front and the remainder via periodic \$250.00 payments. Respondent gave A.C. a fee agreement and receipts. Respondent did not maintain A.C.'s retainer funds in his trust account.

A.C. lived near Respondent's office and visited the office occasionally. He met with Respondent at the initial consultation and on one or two occasions at Respondent's office after that. He also communicated with the office staff by phone. He most often talked to Pacheco, Respondent's legal assistant. A.C. gave Respondent's office staff documents in anticipation of applying for asylum, including the paperwork related to his detention by immigration authorities and a copy of his passport. But Respondent never filed an asylum application on A.C.'s behalf.

Even though Respondent was suspended from the practice of law in February 2021, he never notified A.C. of his suspension. Respondent never provided to A.C. the file for the matter or copies of any filings after his suspension. Nor did Respondent ever refund any of A.C.'s retainer fee, even though he knew that he did not earn the entire amount.

A.C.'s last contact with Respondent's office was in approximately February 2022. After A.C. was unable to reach Respondent by telephone or text message, he researched Respondent online and learned that Respondent was suspended. A.C. is currently representing himself in his

asylum matter because he says other lawyers told him they need a copy of his file, which he does not have.

Through this conduct, Respondent violated Colo. RPC 1.3; Colo. RPC 1.4(a)(3); Colo. RPC 1.4(a)(4); Colo. RPC 1.4(a)(5); Colo. RPC 1.15A(a); Colo. RPC 1.16(d); Colo. RPC 3.4(c); and Colo. RPC 8.4(c).

C.P. Matter

On July 7, 2018, C.P. hired Respondent's firm, Pacheco and Wake, to represent him in an immigration matter. C.P. signed a fee agreement, which provided that the firm would represent C.P. in asylum and removal proceedings. The fee agreement quoted a flat fee of \$6,000.00 and stated, "[t]his fee includes the following services: client meetings, preparation of all applicable forms relating to initial adjustment of status submission of forms, preparation for any response or requests for evidence."⁸ The fee agreement did not contain benchmarks or any other indicator of when the fee would be earned. The fee agreement provided that if the client terminated the representation via written notification, the client would be charged for work completed at a rate of \$500.00 per hour for Respondent's time, \$300.00 per hour for associate lawyer time, and \$150.00 per hour for paralegal time. The fee agreement memorialized that C.P. paid a "down payment" of \$1,400.00 on July 7, 2018, and that he was to pay monthly payments of \$400.00 thereafter.

Initially, Normando Pacheco was C.P.'s lawyer. But when Pacheco died, C.P.'s case was transferred to Respondent. In addition to the down payment, C.P. made nine receipted payments between September 2018 and September 2020: \$400.00 in September 2018; \$400.00 in October 2018; \$400.00 in November 2018; \$400.00 in January 2019; \$400.00 in February 2019; \$500.00 in May 2020; two payments of \$400.00 in July 2020; and \$600.00 in September 2020. Some of the payments were in cash and some were via the Square app. C.P. paid Respondent's firm a total of \$5,300.00. Respondent did not maintain C.P.'s retainer payments in his trust account.

C.P. met with Respondent once at Respondent's office; he otherwise communicated with Respondent's assistant, Joanna Pacheco, by telephone. He also appeared with Respondent at one brief court appearance at which he did not have to speak. C.P. began having difficulty communicating with Respondent and his office in early 2020, however. C.P. called Respondent and sent him numerous text message and emails, all without success. He also visited the office but found no one there. In addition, C.P. emailed Respondent's firm on July 28, 2021, "Hi this is [C.P.] I've been trying to reach out to your guy's office but I don't know if you moved out or something."⁹ There was no response.

⁸ Compl. ¶ 106.

⁹ Compl. ¶ 115.

Respondent did not inform C.P. of his disciplinary suspension in case number 20PDJ038. Respondent never filed an asylum application on C.P.'s behalf, although Respondent did file C.P.'s application for work authorization, which was approved in April 2020. Respondent never refunded any unearned portion of C.P.'s retainer fee.

Through this conduct, Respondent violated Colo. RPC 1.3; Colo. RPC 1.4(a)(3); Colo. RPC 1.4(a)(4); Colo. RPC 1.4(a)(5); Colo. RPC 1.15A(a); Colo. RPC 1.16(d); Colo. RPC 3.4(c); and Colo. RPC 8.4(c).

Leah Rosenberg Matter

On October 3, 2019, A.M.P.S. retained Respondent to represent her in an appeal to the Board of Immigration Appeals. Before hiring Respondent, A.M.P.S. and her longtime partner and common-law husband, D.C.O., pro se applied for asylum but were denied. A.M.P.S. signed a fee agreement with Respondent that listed a flat fee of \$3,000.00, with the services to be performed described as "Board of Immigration Appeal."¹⁰ A.M.P.S. paid Respondent \$1,500.00 by credit card on October 3, 2019, and Respondent timely filed the clients' appeal with the Board of Immigration Appeals. On February 3, 2021, Respondent was suspended from the practice of law in case number 20PDJ038. Respondent did not notify A.M.P.S. or her partner of his suspension.

In May 2021, A.M.P.S. received a notice that the Department of Homeland Security ("DHS") filed a motion for summary affirmance in the appeal. D.C.O. reached out to Respondent. He had great difficulty contacting Respondent, whom he tried to call many times without success. D.C.O. visited Respondent's office and found that Respondent's office had moved to a different floor. D.C.O. confronted Respondent in person, but Respondent declined to talk to him and told him to send him a picture of the notice from DHS. On May 17, 2021, D.C.O. texted Respondent a picture of the government's motion for summary affirmance. Respondent responded to the text message in Spanish. Respondent's text message translates, "That is a summary of the answer and you will still have to wait for a decision from the courts."¹¹ In fact, D.C.O. was required to file a timely response to the government's motion; if D.C.O. did not file a response, the court might deem the motion unopposed and summarily affirm the court below.

Leah Rosenberg is a lawyer who advised A.M.P.S. after Respondent abandoned A.M.P.S.'s immigration matter. After A.M.P.S. was unable to contact Respondent, A.M.P.S. contacted Rosenberg's office, which is how A.M.P.S. discovered that Respondent was suspended.

Through this conduct, Respondent violated Colo. RPC 1.1 (a lawyer must provide competent representation to a client); Colo. RPC 1.3; Colo. RPC 1.4(a)(3); Colo. RPC 1.4(a)(5); Colo. RPC 1.16(d); and Colo. RPC 3.4(c).

¹⁰ Compl. ¶ 138.

¹¹ Compl. ¶ 147.

A.P. Matter

A.P. (formerly known as A.W.) and her husband, L.G.R., hired Pacheco and Wake to represent them in an immigration matter in November 2015. L.G.R. was seeking asylum in the United States. The couple's previous lawyer had filed the asylum application sometime before November 2015. Unbeknownst to A.P., the government had administratively closed the asylum case.

A.P. signed a fee agreement with Respondent's firm on November 5, 2015. The scope of representation was defined as "Asylum – Anything & Everything w/ I-589 App."¹² The fee agreement called for a \$3,000.00 retainer, with \$1,500.00 due immediately as a down payment, \$750.00 due on December 15, 2015, and \$750.00 due on January 15, 2016. The fee agreement did not contain benchmarks or any other indicator of when the fee would be earned. The fee agreement provided that if the client terminated the representation in writing, the client would be charged for work completed at a rate of \$350.00 per hour for Respondent's time and \$200.00 per hour for paralegal time. A.P. paid \$1,500.00 toward the retainer at the time she hired Respondent's firm.

Respondent's firm was somewhat responsive to A.P. until 2019. A.P. typically spoke with Respondent's assistant, Pacheco. A.P. believed they were just waiting for an asylum hearing. At some point during the representation, Respondent filed an application for renewal of L.G.R.'s work authorization, which was approved. Around June 17, 2019, A.P. and L.G.R. went to Respondent's office and paid by credit card for a new work authorization renewal application for L.G.R. The couple paid \$495.00 around June 17, 2019; the payment corresponds with the filing fee for the work authorization renewal (\$410.00) plus the biometric services fee (\$85.00). Respondent did not maintain the \$495.00 fee in his trust account. The trust account balance dipped to zero by July 2019.

A.P. expected Respondent's firm to apply for a work authorization renewal, but the couple never received confirmation that the work authorization was approved, as they had in the past. Respondent never applied for work authorization renewal on L.G.R.'s behalf on or after June 17, 2019. L.G.R.'s work authorization expired in December 2019.

A.P. tried to reach Respondent by calling and leaving voicemails throughout 2020. A.P. reached Respondent's assistant, Pacheco, who said that she would get back to A.P., but she never did. In August 2021, after not getting responses to her emails, A.P. called Respondent and found that his telephone number was no longer in service. She used the internet to find another number. She called and spoke with Pacheco, who said they would resend the work authorization to the government. Pacheco gave L.G.R. a text-only telephone number to use. A.P. left a message in September 2021 that was not returned.

¹² Compl. ¶ 165.

In October 2021, L.G.R. received a notice of a master hearing, which was scheduled for April 15, 2022. A.P. called Respondent's office to let him know. A.P. left a message but did not receive a response. L.G.R. again called Respondent's office in November 2021 and left a message apprising the office of his change of address. Someone texted L.G.R. and asked for his new address, which he provided, but the couple never received a confirmation that a change of address had been filed in the case. L.G.R. called and left messages for Respondent several days in a row in the beginning of April 2022, leading up to the master hearing on April 15, 2022.

A.P. conducted an internet search for Respondent around April 2022 and learned that Respondent had been suspended from the practice of law. Respondent never notified A.P. or L.G.R. of his suspension at the time it took effect or at any time until April 2022. On April 14, 2022, Respondent called A.P., said he would not be able to represent the couple going forward, and vowed to email them their file by the end of the day on April 19, 2022. A.P. recorded this conversation. During the conversation, Respondent said in part:

Normally it's something I would be able to take on, going into the court, but I actually had a like disciplinary issue with this particular court, and while it's getting resolved, I have to wait til the resolution to be able to continue these particular court cases.

...

It was just kind of a minor incident that we're trying to get resolved now; because it happened I can't get in, so it's not something that I'm gonna be able to represent him on with the . . . EOIR

So tomorrow, he's gonna be allowed to have plenty of time to get somebody on this particular case What I'll do is I'll take a look and see what money is still potentially in our account and see if there's any sort of refund but I'm unfortunately not gonna be able to finish the asylum

...

Because hourly, we've earned the wage, but you know because we're unable to finish it, we're gonna make sure that you get the money back for, you know, a large portion of it¹³

During that telephone call, Respondent continued giving advice about the case's procedure, including what would happen at the hearing the next day. He offered to get A.P. a list of alternate lawyers and promised to get her a complete copy of her file. Respondent never followed up or provided any refund.

¹³ Compl. ¶ 187.

A.P. and L.G.R. attended the master hearing pro se because they did not have time to find another lawyer to represent them. After the hearing, A.P. and L.G.R. hired a new lawyer, Andrew Younkins. A.P. emailed Respondent on April 19, 2022. Respondent's assistant, Pacheco, replied that she was "a little limited at the moment" and would send the file as soon as possible. Respondent ultimately provided A.P. the client file.

Through this misconduct, Respondent violated Colo. RPC 1.3; Colo. RPC 1.4(a)(3); Colo. RPC 1.4(a)(4); Colo. RPC 1.4(a)(5); Colo. RPC 1.16(d); Colo. RPC 3.4(c); and Colo. RPC 8.4(c).

Failure to Cooperate

On November 1, 2021, Respondent submitted a letter to the People's intake division requesting an extension of time to answer the request for investigation in the R.D.C. matter. He explained in the letter that he was living in California and occasionally returned to Colorado to check mail. But Respondent never responded substantively to the R.D.C. request for investigation. He also did not respond in writing to the other requests for investigation in the other matters, despite additional letters from the People prompting him to do so.

The People had sporadic contact with Respondent as part of their attempts to secure client files in their role as inventory counsel. Respondent was minimally cooperative and did return files to successor counsel on a couple of occasions in the past year. The People's investigator Sierra Puccio spoke with Respondent in March 2022, at which time he provided a California address and an additional email address. Puccio attempted, without success, to reach Respondent at his last-known telephone number and at his multiple email addresses in May 2022. Respondent has not responded substantively to any of the requests for investigation in the matters described above, despite numerous letters from the People requesting that he do so.

Through this conduct, Respondent violated Colo. RPC 8.1(b) (a lawyer must not knowingly fail to respond to a lawful demand for information from a disciplinary authority).

III. SANCTIONS

The American Bar Association *Standards for Imposing Lawyer Sanctions* ("ABA Standards")¹⁴ and Colorado Supreme Court case law guide the imposition of sanctions for lawyer misconduct.¹⁵ When imposing a sanction after finding of lawyer misconduct, the Court must consider the duty the lawyer violated, the lawyer's mental state, and the actual or potential injury the lawyer's misconduct caused. These three variables yield a presumptive sanction that the Court may then adjust based on aggravating and mitigating factors.

¹⁴ Found in ABA *Annotated Standards for Imposing Lawyer Sanctions* (2d ed. 2019).

¹⁵ See *In re Roose*, 69 P.3d 43, 46-47 (Colo. 2003).

ABA Standard 3.0 – Duty, Mental State, and Injury

Duty. Respondent violated his duties to his clients, including his duties of loyalty and diligence. Respondent also violated his duty as a professional to cooperate with disciplinary authorities. Further, Respondent violated the duties he owes to the legal system as an officer of the court by failing to follow this Court's orders requiring him to wind down his law practice after his suspension.

Mental State. The Court finds that Respondent acted knowingly. Specifically, Respondent knowingly failed to act with diligence, knowingly failed to communicate with his clients, knowingly failed to protect his clients' interests upon termination of representation, knowingly failed to safeguard his clients' property, and knowingly failed to cooperate with this proceeding.

Injury. Respondent's misconduct caused substantial injury: he failed to return unearned fees, depriving his clients of funds they needed for other expenses; he provided incorrect advice and failed to perform the legal services for which he was hired, creating adverse legal consequences for his clients and causing them significant personal and emotional problems; and he harmed the reputation of the legal profession.

The injury Respondent caused his clients is particularly troubling. Respondent abandoned R.D.C., who was being deported from the United States, and he failed to account for at least \$5,000.00 in attorney's fees that R.D.C. paid to him.

E.G.M. was another asylum applicant facing deportation. Respondent abandoned E.G.M. without pursuing his asylum case or defending E.G.M. against deportation. And Respondent failed to account for at least \$5,600.00 that E.G.M. paid to him. E.G.M. explained to the Court that he had to represent himself in immigration court for his last two hearings because Respondent failed to return any portion of his retainer. E.G.M. also explained that he has since hired counsel, but Respondent has not provided E.G.M.'s client file to E.G.M.'s newly hired lawyer.

A.C. also sought asylum in the United States. Even though A.C. paid Respondent at least \$6,000.00 for legal services, Respondent abandoned A.C., never filing A.C.'s asylum application. A.C. explained that he does not have funds to pay a retainer for representation in his upcoming hearings because Respondent failed to return any money to him after abandoning his case.

Respondent also injured C.P., who paid Respondent at least \$5,300.00 to petition for asylum in the United States. C.P. explained that he is anxious about what will happen to his family if he is deported from the United States; this is a possibility, given that C.P. will be facing his final deportation hearing in April 2023. He will be doing so without the help of a lawyer, since Respondent abandoned him without returning his retainer.

A.M.P.S. hired Respondent to file an appeal before the Board of Immigration Appeals. DHS moved to dismiss the appeal, but Respondent recommended that A.M.P.S. not respond to

the motion. Rosenberg, who advised A.M.P.S., explained that quantifying the amount of harm that results from misconduct like Respondent's is difficult, but the Court adjudges it to have caused A.M.P.S. serious potential harm, as A.M.P.S.'s failure to respond ran the risk that the Board would deem the motion unopposed and thus summarily affirm the court below. Rosenberg also explained that the cost to hire a lawyer to correct mistakes in a case is often significantly higher than the fees initially paid to start the case.

In a written statement, A.M.P.S. declared, "[Respondent] did not do what we paid him to do. He hurt us" ¹⁶ A.M.P.S.'s husband, D.C.O., also provided a written statement, averring, "I fear for my wife and my family. I am afraid that there is no way to fix their case and that they will be deported because of [Respondent's] failure to help us." ¹⁷

Similarly, A.P. and L.G.R. hired Respondent to represent them in L.G.R.'s previously filed asylum application. They paid Respondent \$1,500.00 toward the retainer and \$495.00 in filing fees to renew L.G.R.'s employment authorization. Respondent abandoned A.P. and L.G.R., leaving L.G.R. without representation in his asylum matter and deportation case. He also left L.G.R. without work authorization. Respondent not only abandoned L.G.R.'s case, but he also failed to return any portion of L.G.R.'s retainer or filing fees.

Finally, Respondent's failure to wind down his practice after his law license was suspended injured not only his clients—injury that the wind-down rules seek to avoid—but also to the legal system, as Respondent acted in knowing disregard of this Court's orders. Respondent likewise harmed the profession by failing to cooperate with the People's investigation in this disciplinary matter; Respondent's failure to cooperate wasted regulatory resources and hampered the effective oversight of the legal profession.

ABA Standards 4.0-8.0 – Presumptive Sanction

ABA Standard 4.41(a) provides that disbarment is generally appropriate when a lawyer abandons the practice and causes a client serious or potentially serious injury. *ABA Standard 4.41(b)* provides that disbarment is generally appropriate when a lawyer knowingly fails to perform services for a client, causing that client serious or potentially serious injury. And *ABA Standard 4.41(c)* provides that disbarment is generally appropriate when a lawyer engages in a pattern of neglect with respect to client matters and causes the client serious or potentially serious injury. Further, disbarment is also presumed under *ABA Standard 8.1(a)*, which applies when a lawyer intentionally or knowingly violates the terms of a prior disciplinary order, thereby injuring or potentially injuring a client, the public, the legal system, or the profession. Finally, *ABA Standard 7.2* provides that suspension is generally appropriate when a lawyer knowingly

¹⁶ Ex. 2.

¹⁷ Ex. 3.

engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.¹⁸

Under these ABA *Standards*, disbarment is the presumed sanction here.

ABA *Standard* 9.0 – Aggravating and Mitigating Factors

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.¹⁹ The People advance for the Court's consideration four aggravating factors: Respondent's prior discipline,²⁰ his pattern of misconduct, his multiple offenses, and his refusal to acknowledge the wrongful nature of his misconduct.²¹ The Court accepts the People's proposed aggravating factors.²² The Court is unaware of any applicable mitigating factors.

Analysis Under ABA *Standards* and Case Law

The Court heeds the Colorado Supreme Court's directive to exercise discretion in imposing a sanction and to carefully apply aggravating and mitigating factors,²³ mindful that "individual circumstances make extremely problematic any meaningful comparison of discipline ultimately imposed in different cases."²⁴ Though prior cases can inform through analogy, the

¹⁸ The People ask the Court to also apply ABA *Standard* 8.1(b), a discretionary overlay that calls for disbarment. Because disbarment is presumed in this case under other ABA *Standards*, the Court need not determine whether to apply that *Standard* here.

¹⁹ See ABA *Standards* 9.21 and 9.31.

²⁰ See Ex. 1. On February 3, 2021, Respondent was suspended for one year and one day in case number 20PDJ038 after he agreed to represent a husband and wife by petitioning for the husband's residency in the United States; Respondent failed to obtain informed, written consent to the dual representation, and he failed to file the husband's petition. Respondent's suspension was also premised on his conduct in another matter in which he advised a client that he had submitted her petition for an immigrant visa, when in fact he had not; assured the client that he would deliver the petition by courier, but did not do so; failed to contact Senator Michael Bennet's office for assistance as his client had requested; and failed to respond to his client's requests for information about the case. In both matters, Respondent used fee agreements that contained no benchmarks directing how Respondent would earn his fees. Respondent also overdrew his trust account during the representations, and his poor bookkeeping and money-handling practices obscured any details about account transfers.

²¹ ABA *Standards* 9.22(a), (c), (d), and (g).

²² When applying the aggravating factor of prior discipline, the Court takes into account only Respondent's conduct post-dating his suspension.

²³ 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).

²⁴ *Attorney F.*, ¶ 20 (quoting *In re Rosen*, 198 P.3d 116, 121 (Colo. 2008)).

Court is charged with determining the appropriate sanction for a lawyer's misconduct on a case-by-case basis.²⁵

Like the ABA *Standards*, Colorado Supreme Court case law supports disbarment here. Respondent engaged in grave misconduct, including neglecting many client cases, leading to serious or potentially serious client injury. Lawyers who engaged in similar misconduct have been disbarred.²⁶ When a lawyer abandons a client after failing to properly preserve the client's funds, disbarment is all the more justified.²⁷ Given the totality of the circumstances, including Respondent's pattern of neglect, the serious and potentially serious injury resulting from that misconduct, the surfeit of aggravators, and the absence of mitigators, the Court concludes that Respondent should be disbarred.

In addition, the Court finds that restitution in the amount of \$5,000.00 is appropriately ordered to R.D.C., who paid those fees yet received no benefit; to E.G.M. in the amount of \$5,600.00, for E.G.M.'s payment for a work authorization that Respondent never filed; to A.C. in the amount of \$6,000.00 for A.C.'s payment of fees for which he received no benefit; to C.P. in the amount of \$5,300.00 for C.P.'s payment of fees for an asylum application that Respondent never filed; and to A.P. in the amount of \$1,995.00, as A.P. paid \$1,500.00 toward the retainer in her asylum matter, which Respondent never completed; A.P. also paid \$495.00 in fees related to the work authorization, which Respondent never filed.²⁸

IV. CONCLUSION

Respondent's misconduct warrants disbarment. After Respondent was suspended in February 2021, he failed to notify clients about his discipline, failed to appropriately wind down his practice, failed to refund unearned fees to his clients, and abandoned his clients' legal

²⁵ *Id.* ¶ 15.

²⁶ *See People v. Townshend*, 933 P.2d 1327, 1329 (Colo. 1997) (disbarring a lawyer with prior discipline for abandoning two client matters and failing to account for or refund unearned fees); *People v. Williams*, 845 P.2d 1150, 1152-53 (Colo. 1993) (disbarring a lawyer who abandoned a client's case and failed to account for or return a \$500.00 retainer); *People v. Southern*, 832 P.2d 946, 947-48 (Colo. 1992) (finding disbarment warranted when a lawyer neglected and abandoned clients, particularly because the lawyer had previously been suspended for the same misconduct).

²⁷ *See People v. Jamrozek*, 914 P.2d 350, 354 (Colo. 1996) (disbarring a lawyer who accepted fees from several clients and then abandoned them, causing the clients substantial harm).

²⁸ In their sanctions hearing brief, the People request that the Court order Respondent to pay \$1,500.00 in restitution to A.M.P.S. for her payment of fees for work on her appeal before the Board of Immigration Appeals that Respondent never completed. A.M.P.S. also requested that Respondent "pay back the money we gave him for the service he did not provide." Ex. 2. Because the People do not allege in the complaint that Respondent converted A.M.P.S.'s retainer, the Court does not enter a restitution order as to A.M.P.S. Nonetheless, A.M.P.S. may have a valid claim before the Attorney's Fund for Client Protection.

matters. When Respondent abandoned his clients, he “betray[ed] the trust that his clients placed in him when they sought his assistance and the public trust with which he was endowed when he was admitted to [practice law]”²⁹ Respondent also failed to cooperate with disciplinary authorities in this proceeding. Though the Court does not impose disbarment lightly, it concludes that sanction is appropriate under these circumstances.

V. ORDER

The Court **ORDERS**:

1. **PATRICK WAKE**, Wyoming attorney registration number 7-5421, is **DISBARRED** from the practice of law in the **State of Colorado**. The disbarment will take effect upon issuance of an “Order and Notice of Disbarment.”³⁰
2. Respondent **MUST** pay restitution totaling \$23,895.00, as set forth in the restitution order issued contemporaneously with this opinion.³¹
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 Disbarment,” 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.
5. The parties **MUST** file any posthearing motions **no later than Thursday, April 6, 2023**. Any response thereto **MUST** be filed within seven days.
6. The parties **MUST** file any application for stay pending appeal **no later than the date on which the notice of appeal is due**. Any response thereto **MUST** be filed within seven days.

²⁹ *Att’y Grievance Comm’n v. Kwarteng*, 984 A.2d 865, 870 (Md. 2009).

³⁰ 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.

³¹ The Court is issuing a separate “Order Directing Respondent to Pay Restitution Under C.R.C.P. 242.31(a)(3),” which identifies Respondent’s former clients by name.

7. Respondent **MUST** pay the costs of this proceeding. The People **MUST** submit a statement of costs **no later than Thursday, March 30, 2023**. Any response challenging the reasonableness of those costs **MUST** be filed within seven days thereafter.
8. As part of any petition for readmission, Respondent **MUST** demonstrate that he has paid all restitution and has fully reimbursed the Attorney's Fund for Client Protection.



DATED THIS 23rd DAY OF MARCH, 2023.

A handwritten signature in blue ink, appearing to read "Bryon M. Large", is written over a horizontal line.

BRYON M. LARGE
PRESIDING DISCIPLINARY JUDGE