

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2971 Disciplinary Docket No. 3
: :
Petitioner : :
: :
v. : No. 177 DB 2022
: :
: :
KELLEY ELIZABETH CLEMENTS : Attorney Registration No. 320105
KELLER, : :
: :
Respondent : (Cumberland County)
:

ORDER

PER CURIAM

AND NOW, this 1st day of May, 2023, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board, the Joint Petition in Support of Discipline on Consent is granted, and Kelley Elizabeth Clements Keller is suspended on consent from the Bar of this Commonwealth for a period of one year and one day. Respondent shall comply with the provisions of Pa.R.D.E. 217 and pay costs to the Disciplinary Board. See Pa.R.D.E. 208(g)

A True Copy Nicole Traini
As Of 05/01/2023

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :
Petitioner :
 : 177 DB 2022
v. :
 : Attorney Reg. No. 320105
KELLEY ELIZABETH CLEMENTS KELLER, :
Respondent : (Cumberland County)

JOINT PETITION IN SUPPORT OF DISCIPLINE ON CONSENT
PURSUANT TO Pa.R.D.E. 215(d)

Petitioner, Office of Disciplinary Counsel (“ODC”) by Thomas J. Farrell, Chief Disciplinary Counsel, and Kristin A. Wells, Disciplinary Counsel, and Respondent, Kelley Elizabeth Clements Keller, Esquire, by and through her counsel, Melissa L. Kelso, Esquire, respectfully petition the Disciplinary Board in support of discipline on consent, pursuant to Pennsylvania Rule of Disciplinary Enforcement (“Pa.R.D.E.”) 215(d), and in support thereof state:

1. ODC, whose principal office is located at the Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 2700, P.O. Box 62485, Harrisburg, PA 17106, is invested, pursuant to Pa.R.D.E. 207, with the power and the duty to investigate all matters involving alleged misconduct of an attorney in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of the aforesaid Rules.

2. Respondent, Kelley Elizabeth Clements Keller, was born on November 22, 1973, and was admitted to practice law in Pennsylvania on April 6, 2015. Respondent is on active status, and her office address on file with Attorney Registration is 52 West Pomfret Street, Carlisle, Pennsylvania 17013.

FILED
03/28/2023
The Disciplinary Board of the
Supreme Court of Pennsylvania

3. Pursuant to Pa.R.D.E. 201(a)(1), Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

SPECIFIC FACTUAL ALLEGATIONS ADMITTED

Claudia Williams

4. In or about May 2019, Claudia Williams retained Respondent for representation in intellectual property and business-related matters.

5. Ms. Williams paid Respondent an upfront fee of \$15,000 for the services to be performed.

6. In September 2021, Ms. Williams terminated Respondent's representation.

7. At the time the representation was terminated, Respondent had completed some, but not all, of the services that were to be covered by Ms. Williams' \$15,000 payment.

8. Ms. Williams requested that Respondent refund \$10,000 of the fee in recognition of the services that were not completed.

9. Respondent acknowledged she had not provided the full scope of services and offered to refund \$4,164 to Ms. Williams.

10. Respondent failed to complete the services for which she was retained and paid in full.

11. Respondent failed to timely refund the unearned portion of Ms. Williams' fee.

12. On March 13, 2023, Respondent mailed Ms. Williams a cashier's check in the amount of \$4,164.

Bill and Laurie Bodisch

13. In or about November 2019, Bill and Laurie Bodisch retained Respondent to complete legal work for their business ventures, including securing trademarks and

copyrights, and estate planning services.

14. On or about December 2, 2019, the Bodisches paid Respondent an upfront fee of \$13,500 for the services to be provided.

15. Respondent's representation of the Bodisches lasted approximately two years.

16. During that time, Respondent failed to respond to many of the Bodisches' requests for status updates and failed to complete the business-related work.

17. Respondent failed to provide the Bodisches with any estate planning services.

18. In November 2021, the Bodisches terminated Respondent's representation.

19. At the time the representation was terminated, Respondent had not completed the Bodisches' business-related services, and had failed to provide any estate planning services.

20. The Bodisches requested Respondent refund \$10,000 to account for the services that had been paid for but not completed.

21. Respondent failed to promptly refund the unearned portion of the Bodisches' fee.

22. Respondent admits that she failed to provide the Bodisches with any estate planning services.

23. Respondent further admits that she failed to complete all of the business-related services for which the Bodisches paid Respondent in full.

24. On March 13, 2023, Respondent mailed the Bodisches a cashier's check in the amount of \$1,500.

Jamie Trull

25. In or about September 2020, Jamie Trull retained Respondent to file three trademark applications.

26. Ms. Trull paid Respondent an upfront fee of \$3,485 for these services.

27. In or about December 2021, Ms. Trull further requested Respondent file two additional trademark applications.

28. Ms. Trull paid Respondent a \$1,495 upfront fee for these two additional trademark applications.

29. Respondent failed to file any of Ms. Trull's trademark applications.

30. Respondent failed to timely respond to many of Ms. Trull's requests for updates on her trademark applications.

31. In or about February 2022, Ms. Trull demanded that Respondent provide copies of the applications for the initial three trademarks and refund Ms. Trull's \$1,495 fee for the additional two trademark applications.

32. Ms. Trull advised Respondent that if she did not provide the requested refund, Ms. Trull would initiate chargebacks with her credit card company.

33. Respondent encouraged Ms. Trull to initiate the chargebacks.

34. Ultimately, Ms. Trull was successful in recouping the fees she paid to Respondent from Ms. Trull's credit card company.

35. If this matter were to proceed to hearing, Respondent would offer evidence that Ms. Trull's chargeback was charged to and deducted from Respondent's LawPay account.

Ashley Armstrong

36. In or about September 2020, Ashley Armstrong retained Respondent to

prepare and file a trademark application.

37. Ms. Armstrong paid Respondent an upfront fee of \$2,395 for these services.

38. Respondent filed a trademark application on Ms. Armstrong's behalf.

39. Respondent failed to respond to Ms. Armstrong's multiple requests for an update regarding the status of her trademark application.

40. In or about late-May 2021, Respondent informed Ms. Armstrong that Respondent received a response from the Office of Patent and Trademark on Ms. Armstrong's trademark application, which required that Respondent make two "small tweaks" to the application by November 20, 2021.

41. Respondent advised Ms. Armstrong that Respondent "should be in a position to respond very soon."

42. Respondent thereafter failed to make the required changes and failed to resubmit Ms. Armstrong's trademark application by the November 20, 2021, deadline.

43. As a result, the Office of Patent and Trademark deemed Ms. Armstrong's trademark application abandoned.

44. Respondent thereafter failed to take any action to renew Ms. Armstrong's trademark application.

45. After filing her disciplinary complaint, Ms. Armstrong agreed to allow Respondent to complete the services for which she was retained, and those services have now been completed.

James and Connie Kreeger

46. In or about February 2021, James and Connie Kreeger retained Respondent to review and transfer existing Pennsylvania business entities into an existing family trust.

47. The Kreegers paid Respondent an upfront fee of \$2,500 for these services.

48. Respondent failed to provide any services to the Kreegers.

49. Respondent failed to substantially respond to numerous requests for update from the Kreegers, their accountant, or their counsel.

50. By Pennsylvania Supreme Court Order dated March 17, 2021, effective April 16, 2021, Respondent was placed on administrative suspension for failure to comply with her Continuing Legal Education requirements.

51. During her administrative suspension, Respondent continued to communicate with the Kreegers and others involved in their matter concerning information necessary to complete the legal services for which Respondent was retained.

52. Respondent's signature line on these communications identified her as the founder and managing partner of The Keller Law Firm, and implied she was currently eligible to practice law in Pennsylvania.

53. Respondent failed to advise the Kreegers, their accountant, or their counsel of her administrative suspension and resulting inability to continue to represent the Kreegers.

54. During her administrative suspension, Respondent continued to operate and provide legal services through The Keller Law Firm, which was not staffed by a supervising attorney.

55. Respondent failed to file a verified statement with the Disciplinary Board within 10 days of the effective date of her administrative suspension.

56. On July 27, 2021, Respondent filed with the Disciplinary Board a Statement of Compliance.

57. Therein, Respondent attested that she had no clients or others that she

needed to notify of her administrative suspension in accordance with Pa.R.D.E. 217(a), (b), and (c).

58. This statement was false and misleading, in that Respondent was, at minimum, required to inform the Kreegers, their accountant, and/or their counsel of her administrative suspension.

59. On July 28, 2021, Respondent was reinstated to active status in Pennsylvania.

60. In or about early-February 2022, the Kreegers terminated Respondent's representation.

61. At that time, Respondent acknowledged her delay and lack of communication, but stated that she had completed all the work and would forward the same to Mrs. Kreeger.

62. Respondent's statement was false and misleading, because she had not finally completed all the work for which the Kreegers had paid Respondent.

63. Respondent failed to provide any work product to the Kreegers or complete the services for which she was retained and paid in full.

64. On March 13, 2023, Respondent mailed the Kreegers a cashier's check in the amount of \$2,500.

Ellen Johnson

65. In or about early-March 2021, Ellen Johnson retained Respondent to conduct an intellectual property audit.

66. Ms. Johnson paid Respondent an upfront fee of \$2,105 for these services.

67. In or about late-March 2021, Ms. Johnson requested Respondent also provide independent contractor-related services.

68. Ms. Johnson paid Respondent an additional \$1,500 upfront fee for these independent contractor-related services.

69. Respondent failed to complete the work for which Ms. Johnson paid upfront legal fees and failed to respond to Ms. Johnson's requests for updates.

70. In or about early-October 2021, Ms. Johnson demanded that Respondent complete the services for which she was retained, or refund the fees paid.

71. Respondent told Ms. Johnson that she had completed the requested audit and provided a "working copy" to Ms. Johnson for review.

72. Respondent thereafter failed to finalize the intellectual property audit.

73. Respondent further failed to respond to Ms. Johnson's multiple requests for Respondent to complete the work or refund the unearned portion of the fee.

74. Respondent admits that she failed to complete the services for which she was retained and paid in full.

75. On March 13, 2023, Respondent mailed Ms. Johnson a cashier's check in the amount of \$2,552.50.

Cari Wise

76. In or about May 2021, Cari Wise retained Respondent to file two trademark applications and review a business agreement.

77. Ms. Wise paid Respondent an upfront fee of \$3,540 for these services.

78. Respondent failed to take any action on Ms. Wise's behalf.

79. Respondent failed to substantively respond to any of Ms. Wise's requests for update regarding the status of her matters.

80. In or about October and November 2021, Ms. Wise demanded that Respondent refund \$3,009 of Ms. Wise's fee to account for the services Respondent

failed to provide.

81. Respondent failed to respond to Ms. Wise's requests for a refund of unearned fees.

82. Respondent admits that she failed to complete the services for which she was retained and paid in full.

83. On March 13, 2023, Respondent mailed Ms. Wise a cashier's check in the amount of \$3,009.

**SPECIFIC RULES OF PROFESSIONAL CONDUCT
AND RULES OF DISCIPLINARY ENFORCEMENT VIOLATED**

84. Respondent violated the following Pennsylvania Rules of Professional Conduct and Rules of Disciplinary Enforcement:

a. RPC 1.3, which requires a lawyer to act with reasonable diligence and promptness in representing a client;

b. RPC 1.4(a)(2), which requires a lawyer to reasonably consult with the client about the means by which the client's objectives are to be accomplished;

c. RPC 1.4(a)(3), which requires a lawyer to keep the client reasonably informed about the status of the matter;

d. RPC 1.4(a)(4), which requires a lawyer to promptly comply with reasonable requests for information;

e. RPC 1.5(a), which prohibits a lawyer from entering into an agreement for, charging, or collecting a clearly excessive fee;

f. RPC 1.15(e), which requires a lawyer to promptly deliver to a client any property, including RPC 1.15 funds, that the client is entitled to

receive and, upon request, render a full accounting of the property;

g. RPC 1.16(d), which requires a lawyer, upon termination of the representation, to take steps to protect the client's interest, including surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred;

h. RPC 5.5(a), which prohibits the unauthorized practice of law;

i. RPC 8.4(b), which prohibits a lawyer from committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;

j. RPC 8.4(c), which prohibits a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation;

k. Pa.R.D.E. 217(a), which requires a formerly admitted attorney to notify all clients being represented in pending matters, other than litigation or administrative proceedings, of their administrative suspension and the need for the clients to seek legal advice elsewhere;

l. Pa.R.D.E. 217(c)(2), which requires a formerly admitted attorney to promptly notify all persons with whom the attorney expects to have professional contacts under circumstances where there is a reasonable probability that they may infer that the formerly admitted attorney continues as an attorney in good standing;

m. Pa.R.D.E. 217(e)(1), which requires a formerly admitted attorney to, within 10 days of the effective date of their administrative suspension, file with the Board a verified statement and serve a copy on Disciplinary Counsel, attesting to their compliance with the applicable rules and

providing proof thereof;

n. Pa.R.D.E. 217(j)(1), which prohibits a formerly admitted attorney from engaging in any form of law-related activities in this Commonwealth, except in accordance with the rules;

o. Pa.R.D.E. 217(j)(4)(i), which specifically prohibits a formerly admitted attorney from performing any law-related activity for a law firm, organization, or lawyer with which the formerly admitted attorney was associated on or after the date on which the acts that resulted in the suspension occurred;

p. Pa.R.D.E. 217(j)(4)(ii), which specifically prohibits a formerly admitted attorney from performing any law-related services from an office that is not staffed by a supervising attorney on a full time basis;

q. Pa.R.D.E. 217(j)(4)(iii) which specifically prohibits a formerly admitted attorney from performing any law-related services for a client who in the past was represented by the formerly admitted attorney;

r. Pa.R.D.E. 217(j)(4)(iv), which specifically prohibits a formerly admitted attorney from representing themselves as a lawyer or person of similar status; and

s. Pa.R.D.E. 217(j)(4)(v), which specifically prohibits a formerly admitted attorney from having any contact with clients either in person, by telephone, or in writing, except concerning ministerial matters.

SPECIFIC RECOMMENDATION FOR DISCIPLINE
ONE-YEAR AND ONE-DAY SUSPENSION

85. Petitioner and Respondent jointly recommend that the appropriate

discipline for Respondent's admitted misconduct is a one-year and one-day suspension.

86. Respondent hereby consents to that discipline being imposed upon her by the Supreme Court of Pennsylvania. Attached to this Petition is Respondent's executed Affidavit required by Pa.R.D.E. 215(d), stating that she consents to the recommended discipline and including the mandatory acknowledgements contained in Pa.R.D.E. 215(d)(1)-(4).

87. In support of Petitioner and Respondent's joint recommendation, it is respectfully submitted that the following mitigating circumstances are present:

- a. Respondent has admitted engaging in misconduct and violating the charged Rules of Professional Conduct;
- b. Respondent has cooperated with Petitioner in connection with this Petition, as evidenced by Respondent's admissions herein and her consent to receiving a one-year and one-day suspension;
- c. Respondent expresses remorse for her misconduct and understands she should be disciplined, as evidenced by her consent to receiving a one-year and one-day suspension;
- d. Respondent has practiced law in Pennsylvania for seven years and has no record of discipline; and
- e. If this matter proceeded to a hearing, Respondent would offer evidence that she was experiencing personal and professional difficulties during the time of her misconduct, including the loss of several staff members, the impact of the COVID-19 pandemic, and diagnosed anxiety and depression.

88. The parties agree that Respondent's misconduct is serious and warrants a one-year and one-day suspension. Respondent primarily practices copyright and trademark law, and at the time of the misconduct at issue, she operated as a solo practitioner. Over the course of approximately two and one-half years, Respondent accepted upfront fees from seven clients, failed to perform the work for which she was paid, and failed to promptly refund the unearned portion of her clients' fees. In one matter involving exclusively Pennsylvania law, Respondent failed to discontinue representation when she was placed on administrative suspension and falsely certified on her Statement of Compliance that she had no clients or persons to notify of her administrative suspension.

The parties agree that a one-year and one-day suspension is consistent with established disciplinary caselaw involving serial neglect, lack of communication, and retaining unearned fees. *See ODC v. Douglas Andrew Grannan*, 197 DB 2016 (D. Bd. Rpt. 4/3/2019)(S. Ct. Order 7/9/2019) (one-year and one-day suspension for incompetence, neglect, lack of communication, failure to return client files, and conduct prejudicial to administration of justice in seven client matters; adverse consequences to clients as rights jeopardized or lost in immigration matters; no prior discipline; no remorse or acceptance of responsibility); *ODC v. Lee Eric Oesterling*, 18 DB 2014 (Jt. Petition 2/11/2014) (S. Ct. Order 5/23/2014) (one-year and one-day suspension on consent; accepted client fees in six separate matters, began work and then failed to communicate with clients, missed court dates, closed office and failed to provide clients with updated contact information, and failed to refund unearned fees); *ODC v. Sterling Artist*, 153 DB 2005 (D. Bd. Rpt. 4/27/2007) (S. Ct. Order 7/18/2007) (one-year and one-day suspension for neglect, incompetence, lack of communication, failure to return files, and

misrepresentation in three client matters; no prior discipline; admitted wrongdoing); *ODC v. Howard Goldman*, 157 DB 2003 (D. Bd. Rpt. 5/20/2005) (S. Ct. Order 8/30/2005) (one-year and one-day suspension for neglect of four client matters; no prior discipline; admitted misconduct).

In *ODC v. Tangie Marie Boston*, 99 DB 2018 (D. Bd. Rpt. 12/10/2019) (S. Ct. Order 2/12/2020), the Court imposed a one-year and one-day suspension for Ms. Boston's "troubling pattern of neglect," lack of communication, failure to return unearned fees, and conduct prejudicial to the administration of justice in three client matters. D.Bd. Rpt. at 24. In one of the matters, a divorce case, Ms. Boston failed to submit a revised draft order to the pensions office upon being informed that the draft order she had submitted was in the incorrect form. In another divorce matter, Ms. Boston failed to take any action after filing the divorce complaint. Like Respondent, Ms. Boston had no prior history of discipline, answered the charges against her, stipulated to many of the facts and rule violations, admitted her derelictions, and took responsibility for her misconduct.

In *ODC v. Michael J. Halprin*, 145 DB 2016 (Jt. Petition 2/1/2017)(S. Ct. Order 3/30/2017), the Court approved a one-year and one-day consent petition based on Mr. Halprin's neglect, lack of communication, failure to advise of his suspension, and failure to refund unearned fees in two bankruptcy client matters. In each case, Mr. Halprin accepted the representation, was paid upfront fees, and then failed to take any action on behalf of the clients or respond to their multiple requests for updates. Respondent further failed to advise the clients when he was suspended by the Bankruptcy Court and, reciprocally, the Pennsylvania Supreme Court. After the clients terminated his representation, Mr. Halprin failed to refund the unearned advanced fees. In mitigation, Mr. Halprin had no prior history of discipline and admitted his misconduct.

More severe discipline does not appear warranted here given the absence of serious aggravation. *See e.g., ODC v. Holly C. Dobrosky*, 207 DB 2016 (D. Bd. Rpt. 9/12/2019)(S. Ct. Order 1/13/2020) (three-year suspension for serious neglect in four client matters, aggravated by respondent's misrepresentations to the court that another attorney stole her client file); *ODC v. Donna Marie Albright-Smith*, 225 DB 2010 (D. Bd. Rpt. 12/30/2011)(S. Ct. Order 5/30/2012) (two-year suspension for serious neglect in eight client matters, aggravated by respondent's misrepresentations to the court); *ODC v. Paula M. Lappe*, 38 DB 2004 (D. Bd. Rpt. 2/22/2005)(S. Ct. Order 5/11/2005) (two-year suspension for neglect of two client matters and failure to inform clients of administrative suspension, aggravated by respondent's failure to appear and/or participate in disciplinary proceedings). Respondent's misconduct does not involve similar aggravation.

Under the circumstances of this case, a one-year and one-day suspension on consent ensures that Respondent will be removed from the practice of law without significant delay and will require that Respondent prove her fitness prior to regaining the privilege to practice law.

WHEREFORE, Petitioner and Respondent respectfully request that, pursuant to Pa.R.D.E. 215(e), 215(g) and 215(i), a three-member panel of the Disciplinary Board review and approve the Joint Petition in Support of Discipline on Consent and file a recommendation with the Supreme Court of Pennsylvania that Respondent be suspended for one-year and one-day on consent

Respectfully and jointly submitted,

Office of Disciplinary Counsel Thomas J. Farrell
Chief Disciplinary Counsel

Date: 03/27/2023

By: Kristin A. Wells
Kristin A. Wells, Disciplinary Counsel
Attorney Registration No. 312080
601 Commonwealth Avenue, Suite 5800
P.O. Box 62675
Harrisburg, PA 17106
Telephone (717) 772-8572

Date: 3-27-23

By: Kelley C Keller
Kelley Elizabeth Clements Keller, Respondent
Attorney Registration No. 320105
52 W. Pomfret St.
Carlisle, PA 17013
Telephone (717) 386-5035

Date: 3-27-23

By: Melissa L. Kelso
Melissa L. Kelso, Respondent's Counsel
Attorney Registration No. 306793
Kelso Law, LLC
396 Alexander Spring Rd., Suite 1
Carlisle, PA 17015
Telephone (717) 422-5323

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :
Petitioner :
 : 177 DB 2022
v. :
 : Attorney Reg. No. 320105
KELLEY ELIZABETH CLEMENTS KELLER, :
Respondent : (Cumberland County)

VERIFICATION

The statements made in the foregoing Joint Petition in Support of Discipline on Consent Pursuant to Pa.R.D.E. 215(d) are true and correct to the best of my knowledge or information and belief. This statement is made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Respectfully submitted,

Date: 03/27/2023

By: Kristin A. Wells
Kristin A. Wells, Disciplinary Counsel
Attorney Registration No. 312080
601 Commonwealth Avenue, Suite 5800
P.O. Box 62675
Harrisburg, PA 17106
Telephone (717) 772-8572

Date: 3-27-23

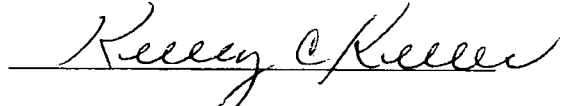
By: Kelley Elizabeth Clements Keller
Kelley Elizabeth Clements Keller, Respondent
Attorney Registration No. 320105
52 W. Pomfret St.
Carlisle, PA 17013
Telephone (717) 386-5035

6. I consent because I know that if the charges continued to be prosecuted in the pending proceeding, I could not successfully defend against them; and

7. I am aware of my right to retain counsel in the instant proceeding and I have acted upon the advice of counsel, Melissa L. Kelso, Esquire in connection with my decision to execute the Joint Petition.

It is understood that the statements made herein are subject to the penalties of 18 Pa.C.S.A. §4904 (relating to unsworn falsification to authorities).

Signed this 27th day of March, 2023.


KELLEY ELIZABETH CLEMENTS KELLER

Subscribed and sworn this 27th
day of March, 2023 before
Kelly S. Baker Notary Public

Commonwealth of Pennsylvania - Notary Seal
Kelly S. Baker, Notary Public
Franklin County
My commission expires February 7, 2024
Commission number 1005700
Member, Pennsylvania Association of Notaries

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Office of Disciplinary Counsel

Signature: Kristin A. Wells

Name: Kristin A. Wells

Attorney No. (if applicable): 312080