

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

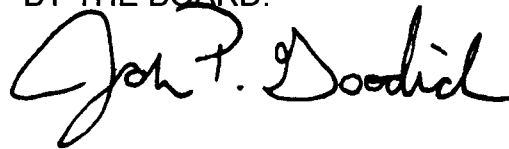
OFFICE OF DISCIPLINARY COUNSEL : No. 106 DB 2021
Petitioner :
v. : Attorney Registration No. 50176
JULIE CHOVANES :
Respondent : (Philadelphia)

ORDER

AND NOW, this 18th day of August, 2021, in accordance with Rule 215(g), Pa.R.D.E., the three-member Panel of the Disciplinary Board having reviewed and approved the Joint Petition in Support of Discipline on Consent filed in the above captioned matter; it is

ORDERED that JULIE CHOVANES be subjected to a **PUBLIC REPRIMAND** by the Disciplinary Board of the Supreme Court of Pennsylvania as provided in Rule 204(a) and Rule 205(c)(9) of the Pennsylvania Rules of Disciplinary Enforcement.

BY THE BOARD:



Board Chair

TRUE COPY FROM RECORD
Attest:



Marcee D. Sloan
Board Prothonotary
The Disciplinary Board of the
Supreme Court of Pennsylvania

John A. Smith

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : 106 DB 2021
Petitioner :
 : ODC File No. C1-19-927
v. :
 : Atty. Reg. No. 50176
JULIE CHOVANES, :
Respondent : (Philadelphia County)

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

Petitioner, the Office of Disciplinary Counsel ("ODC"), by Thomas J. Farrell, Chief Disciplinary Counsel and Michael D. Gottsch, Disciplinary Counsel, and Respondent, Julie Chovanes, Esquire ("Respondent"), 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:

PARTIES TO DISCIPLINE ON CONSENT

1. Pursuant to Pa.R.D.E. 207, ODC, whose principal office is situated at Office of Chief Disciplinary Counsel, Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, P.O. Box 62485, Harrisburg, Pennsylvania, 17106, is invested with the power and duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought

FILED
08/10/2021
The Disciplinary Board of the
Supreme Court of Pennsylvania

in accordance with the provisions of the Enforcement Rules.

2. Respondent was born on October 29, 1960, is currently 60 years old, and was admitted to the Bar of the Commonwealth of Pennsylvania on November 20, 1987. Respondent is on active status in Pennsylvania, and her last registered address is P.O. Box 4307 Philadelphia, PA 19118.

3. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court.

4. Respondent has no prior record of discipline.

SPECIFIC FACTUAL ALLEGATIONS ADMITTED

5. Respondent's affidavit stating, *inter alia*, her consent to the recommended discipline is attached as Exhibit A.

6. Respondent represented the defendant, Avidas Pharmaceuticals, LLC, in *La Jolla SPA MD, Inc. v. Avidas Pharmaceuticals, LLC*, Case No. 3:17-CV-01124-MMA-WVG (hereafter, "the *La Jolla* case"), in the United States District Court for the Southern District of California, having been admitted to that court *pro hac vice*.

7. In the course of such representation, Respondent defended the deposition of Margaret Gardner, the founder of Avidas Pharmaceuticals, LLC ("Avidas"), which took place in Philadelphia, Pennsylvania on May 3, 2019.

8. Gardner had been designated by Avidas as its witness with respect to topics set forth in a notice of deposition pursuant to Fed.R.Civ.P. 30(b)(6).

9. Gardner's deposition was taken by plaintiff's counsel, James T. Ryan, Esquire ("Ryan").

10. After the *La Jolla* case was filed, and before the Gardner deposition was held, Magistrate Judge William V. Gallo held numerous teleconferences with Respondent and Ryan to address and resolve various issues and disputes.

11. Magistrate Judge Gallo would later opine that Respondent's demeanor on those teleconferences was "consistently flippant, overly-aggressive, truculent, and quick to confrontation." Respondent contends that she did not have an opportunity to respond to that opinion because Magistrate Judge Gallo first raised the question of Respondent's teleconference-demeanor in his sanctions opinion, months after the conferences had occurred.

12. On numerous occasions during those teleconferences, Respondent, *inter alia*, referred to the plaintiff's case as a "garbage case."

13. In an Order and Opinion dated August 30, 2019, Magistrate Judge Gallo granted the plaintiff's motion for sanctions against Respondent under Fed.R.Civ.P. 11 and 28 U.S.C. § 1927 ("sanctions

opinion") based on Respondent's conduct during the May 3rd deposition. *La Jolla SPA MD, Inc. v. Avidas Pharmaceuticals, LLC*, 2019 WL 4141237, slip op. (S.D.Cal. Aug. 30, 2019).

14. Specifically, after having been called by the parties during the course of the deposition, and after viewing the deposition transcript along with 128 deposition video clips, Magistrate Judge Gallo found the following:

a. Throughout Gardner's May 3, 2019 deposition, Respondent interrupted, lodged frivolous objections, improperly instructed Gardner to not answer questions, and extensively argued with Ryan.

b. The transcript of the Gardner deposition contains at least 39 instances where, based on improper grounds, Respondent instructed Gardner not to answer questions, in violation of Fed.R.Civ.P. 30(c)(2).

c. Respondent repeatedly instructed Gardner not to answer Ryan's questions, while lodging objections that Ryan's questions were irrelevant, beyond the scope of discovery, and outside the subjects listed in the Rule 30(b)(6) deposition notice.

d. Approximately two hours into the deposition, Respondent and Ryan contacted the Court for a discovery conference regarding Respondent's objections and instructions to Gardner, at which time the Court instructed Respondent and Ryan to continue the deposition and to preserve objections, and told Respondent that objections based on scope and relevance were not proper bases on which to instruct Gardner to not answer questions.

e. After the discovery conference with the Court, Respondent stopped instructing Gardner to not answer questions but Respondent continued to interrupt and make various improper objections.

f. Respondent also continued to argue with Ryan, tried to rush his questioning, made frivolous objections, and instructed Ryan how he should ask questions and conduct the deposition.

g. Respondent also made suggestive objections that subtly coached Gardner how to answer Ryan's questions.

h. In one instance of discourteous and aggressive behavior during the deposition, Respondent had an outburst in which Respondent stood over the examination table, aggressively and falsely accused Ryan of threatening Gardner, and then left the room for a break, contrary to the break schedule that the court had ordered for the deposition (deposition to be taken over the course of one day, in two-hour blocks, with 30-minute breaks, comprising seven hours exclusive of breaks).

i. As a result, Respondent disrupted Ryan's questioning, and impeded, delayed, and frustrated the fair examination of Gardner by Ryan.

15. On August 16, 2019, Magistrate Judge Gallo held a hearing on the sanctions motion and heard argument from Respondent and Ryan.

16. During that argument, Respondent again characterized the plaintiff's case as a "garbage case."

17. Magistrate Judge Gallo found that Respondent unreasonably and vexatiously multiplied proceedings, and acted in bad faith. Magistrate Judge Gallo also found that Respondent violated the basic standards of professionalism expected of all attorneys appearing before the Court, citing S.D. Cal. Civ. L.R. 83.4. Respondent asserts that the plaintiff in the case before

Magistrate Judge Gallo did not allege it had been prejudiced in any way and did not request that the deposition be retaken.

18. Magistrate Judge Gallo sanctioned Respondent personally in the amount of \$28,502.03.

19. Magistrate Judge Gallo ordered Respondent to self-report to the Pennsylvania Office of Disciplinary Counsel ("ODC") (referring to it as the State Bar of Pennsylvania) on or before September 24, 2019.

20. Magistrate Judge Gallo ordered Respondent to file a declaration in the *La Jolla* case, on or before October 1, 2019, confirming compliance with his order and confirming that all documents and video clips were submitted to ODC.

21. Respondent received timely notice of the order.

22. Respondent did not self-report as Magistrate Judge Gallo had ordered Respondent to do.

23. Respondent did not file the declaration that Magistrate Judge Gallo had ordered Respondent to file.

24. On September 16, 2019, Respondent filed an untimely objection to Magistrate Judge Gallo's August 30, 2019 Order and Opinion awarding sanctions and other relief against her.

25. By Order and Opinion dated October 10, 2019, United States District Judge Michael M. Anello denied Respondent's objection on the grounds of timeliness, declining to rule on the

merits of the objection and stating that Magistrate Judge Gallo's Order remained in full force and effect. *La Jolla SPA MD, Inc. v. Avidas Pharmaceuticals, LLC*, 2019 WL 5088559, slip op. (S.D.Cal. Oct. 10, 2019) at *4.

26. Respondent did not appeal Magistrate Judge Gallo's August 30, 2019 Order.

27. Respondent did not appeal Judge Anello's October 10, 2019 Order.

28. Respondent failed to self-report and file the declaration, as Magistrate Judge Gallo had ordered Respondent to do.

29. As a result, the court directed the Clerk of Courts to send to Office of Disciplinary Counsel the Opinion and Order, transcript of the sanctions hearing, disc containing the 128 video clips and the deposition transcript.

30. On May 21, 2020, ODC sent Respondent a DB-7 Request for Statement of Respondent's Position ("DB-7 letter").

31. By email dated July 1, 2020, ODC sent Respondent a follow up reminder, as she had failed to respond to the DB-7 letter.

32. Respondent responded by email, and thereafter sought several extensions of time to respond, which ODC granted throughout the summer and early fall of 2020.

33. However, Respondent never filed a response to the DB-7 letter.

34. Respondent now accepts full responsibility for her misconduct, as described above.

35. If this matter were to proceed to a hearing Respondent would testify about her long career as an advocate for the LGBTQ community and in civil rights cases. Respondent would further explain that while she now appreciates and takes responsibility for her misconduct, at the time she was caught up in her role as an advocate who has fought passionately for the rights of the disadvantaged.

VIOLATIONS OF THE RULES OF PROFESSIONAL CONDUCT

36. By her conduct as set forth in paragraphs 6 through 34 above, Respondent acknowledges she violated the following Rules of Professional Conduct:

a. CA RPC 3.1(a)(1), which states that a lawyer shall not ... assert a position in litigation ... without probable cause and for the purpose of harassing or maliciously injuring any person.

b. CA RPC 3.2, which states that in representing a client, a lawyer shall not use means that have no substantial purpose other than to delay or prolong the proceeding or to cause needless expense.

c. CA RPC 3.4(f), which states 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.

d. CA RPC 8.4(d), which states that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

e. Pa. R.D.E. 203(b)(7), which provides that among the grounds for discipline is the failure by a Respondent, without good cause, to respond to Disciplinary Counsel's request under Disciplinary Board Rules § 87.7(b) for a statement of Respondent's position.

JOINT RECOMMENDATION FOR DISCIPLINE

37. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent's misconduct is a public reprimand.

38. Respondent hereby consents to the discipline being imposed upon her by the Disciplinary Board of the Supreme Court of Pennsylvania. Attached to this Petition as Exhibit A is Respondent's executed Affidavit as required by Pa.R.D.E. 215(d)(1) through (4).

39. In support of the Joint Petition, the parties respectfully submit that the following mitigating circumstances are present:

- a. Respondent accepts full responsibility for her misconduct and is remorseful;
- b. While not rising to the level of *Braun*¹ mitigation evidence, during the relevant time period Respondent experienced personal, professional, and health issues that may have contributed to her misconduct;
- c. Respondent has cooperated with Disciplinary Counsel in jointly agreeing to discipline on consent;
- d. Respondent understands discipline is necessary and appropriate, and has expressed a willingness to accept public discipline in the form of a public reprimand; and
- e. Respondent has no history of discipline in 33 years of practice.

40. In Pennsylvania, there is no *per se* discipline for a particular type of misconduct; instead, each case is reviewed individually while being mindful of precedent and the need for consistency. ***Office of Disciplinary Counsel v. Lucarini***, 472 A.2d 186, 190 (Pa. 1983).

¹ See *Office of Disciplinary Counsel v. Braun*, 553 A2d 894 (Pa. 1989).

41. The parties believe, and therefore aver, that their recommendation for a public reprimand is consistent with other matters involving litigation misconduct and failure to obey court orders, specifically:

- a. In a comparable case, ***Office of Disciplinary Counsel v. Cynthia Lynn Pollick, No. 5 DB 2018*** (Public Reprimand 1/7/2019), the respondent, a civil rights plaintiff's lawyer having no history of discipline, received a public reprimand for litigation misconduct that occurred in a federal civil rights case. Throughout the trial, the respondent, *inter alia*, mischaracterized evidence in an inflammatory manner, misled the jury, asked questions about evidence that had been ruled inadmissible, asked for lay opinion testimony where such testimony was improper, and expressed her own personal outrage at a defendant's conduct. The defendants ultimately prevailed, with the exception that the Third Circuit reversed and ordered a new trial as to one defendant. Prior to that trial, the respondent settled the case for \$25,000 but filed a fee petition seeking fees of \$727,000, which included all of the respondent's work that had been unsuccessful in the prior proceedings. The court denied the respondent's fee petition as

excessive and unwarranted and sanctioned her in the amount of \$25,000 for violating Fed.R.Civ.P. 11 and 28 U.S.C. § 1927. The court determined that the respondent had billed for time that was necessitated by her own vexatious and obstreperous conduct and had billed all of her time spent on the failed trials, and that her hourly rate was inflated, unreasonable, and not reflective of her performance. The court noted that in filing the excessive fee petition, the respondent willfully ignored multiple prior rulings in other cases she had handled, wherein the judges made her aware of the case law regarding billing records and fee petitions and instructed her to cease filing similar excessive fee petitions. Nonetheless, the fee petition at issue was extremely excessive and contained billing entries nearly identical to the respondent's improper billing entries in the prior cases. The court further noted the respondent's "strange and obstreperous conduct" at the hearing on the fee petition, stating that the respondent had "flaunted any semblance of propriety and decorum in federal court." Further, essentially defying the court, when the court questioned the respondent's manner of billing and failure to revise her bills before

submitting them, the respondent suggested it was her right to submit the entries as she pleased. Similarly, when questioned by the court why she had not conformed her fee petition to the case law regarding her previous excessive fee petitions, the respondent stated that she would not revise documents related to her fee request that she had already filed with the court.

- b. Like respondent Pollick, Respondent here has no history of discipline. Considered as a whole, Respondent's conduct, while similar to Pollick's in some respects, is less egregious than Pollick's. Still, because Respondent's conduct clearly violates the California RPCs and is sufficiently egregious as to have warranted sanctions, and because Respondent failed to answer the DB-7 letter, a public reprimand is appropriate.
- c. There are several other cases involving sanctions for frivolous filings and obdurate and vexatious behavior, but these are distinguishable as they involve qualitatively more serious misconduct and/or respondent-attorneys with histories of discipline.
- d. In Office of Disciplinary **Counsel v. Mary Ellen Chajkowski, No. 81 DB 2015** (Bd. Rpt. 3/2/2017) (S.Ct. Order 6/1/2017), the respondent, who had previously

received an informal admonition, was suspended for one year and one day where she had filed multiple frivolous actions based on the same lawsuit in defiance of several court orders, pursued an "obdurate and vexatious" prosecution of a frivolous appeal, and showed contempt for the authority of the courts. The Board found that Respondent Chajkowki's contempt for judicial authority was evident from, inter alia, her conduct on behalf of her client over a span of more than ten years.

- e. In ***Office of Disciplinary Counsel v. Paul J. McArdle, No. 39 DB 2015*** (Bd. Rpt. 9/21/2016) (S.Ct. Order 11/22/2016), the respondent, who had no history of discipline, was suspended for one year and one day for filing multiple frivolous actions based on the same or related causes of action against 34 defendants in defiance of several court orders.
- f. In ***Office of Disciplinary Counsel v. Gary Scott Silver, Nos. 56 DB 2003 and 178 DB 2002*** (D.Bd. Rpt. 1/7/2005) (S.Ct. Order 4/6/2005), the respondent, who had prior discipline, was suspended for six months followed by twelve months of probation with a practice monitor for failing to comply with court orders, thereby

delaying the proceedings, commingling, and failing to maintain complete compliance records.

- g. Respondent's conduct is less egregious than that of Chajkowki, McArdle, and Silver. Respondent's misconduct involved her behavior in a single deposition, whereas the respondents in the other cases repeated their misconduct on multiple occasions. In addition, although Respondent did not comply with Magistrate Judge Gallo's order requiring her to self-report and to file a declaration of compliance, she did not persist in additional misconduct in defiance of a court order.

42. Respondent's lack of prior discipline, admission of wrongdoing, expression of remorse, and cooperation with Disciplinary Counsel make Respondent a suitable candidate for public discipline in the form of a public reprimand.

43. Based on the totality of the circumstances presented as more fully described and set forth above, the parties submit that discipline in the form of a public reprimand will adequately address Respondent's misconduct and allow for her to reflect upon her behavior and maintain the integrity of the legal profession, while also taking into consideration Respondent's mitigating factors.

WHEREFORE, Petitioner and Respondent respectfully request, pursuant to Pennsylvania Rules of Disciplinary Enforcement 215(e) and 215(g), that a three member panel of the Disciplinary Board review and approve the Joint Petition in Support of Discipline on Consent and Order that Respondent receive a public reprimand.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL
THOMAS J. FARRELL
Attorney Registration Number 48976
Chief Disciplinary Counsel

8-4-21
DATE

Michael D. Gottsch
Michael D. Gottsch
Disciplinary Counsel
Attorney Registration Number 39421
Office of Disciplinary Counsel
District I Office
1601 Market Street
Philadelphia, PA 19103
(215) 560-6296

DATE

Julie Chovanes, Esquire
Respondent
Attorney Registration Number 50176

WHEREFORE, Petitioner and Respondent respectfully request, pursuant to Pennsylvania Rules of Disciplinary Enforcement 215(e) and 215(g), that a three member panel of the Disciplinary Board review and approve the Joint Petition in Support of Discipline on Consent and Order that Respondent receive a public reprimand.

Respectfully submitted,

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1601 Market Street
Philadelphia, PA 19103
(215) 560-6296

8-9-21

DATE

Julie Chovanes

Julie Chovanes, Esquire
Respondent
Attorney Registration Number 50176

VERIFICATION

The statements contained in the foregoing *Joint Petition In Support of Discipline on Consent* are true and correct to the best of my knowledge or information and belief and are made subject to the penalties of 18 Pa.C.S.A. §4904, relating to unsworn falsification to authorities.

8-4-21

DATE

Michael D. Gottsch

Michael D. Gottsch, Esquire
Disciplinary Counsel

DATE

Julie Chovanes, Esquire
Respondent

VERIFICATION

The statements contained in the foregoing *Joint Petition In Support of Discipline on Consent* are true and correct to the best of my knowledge or information and belief and are made subject to the penalties of 18 Pa.C.S.A. §4904, relating to unsworn falsification to authorities.

8-4-21
DATE

Michael D. Gottsch
Michael D. Gottsch, Esquire
Disciplinary Counsel

8-5-01
DATE

Julie Chovanes
Julie Chovanes, Esquire
Respondent

EXHIBIT A

Joint Petition are true.

6. She submits this affidavit because she knows that if charges predicated upon the matter under investigation were filed, or continued to be prosecuted in the pending proceeding, she could not successfully defend against them.

7. She acknowledges that she is fully aware of her right to consult and employ counsel to represent her in the instant proceeding. She has not retained, consulted, or acted upon the advice of counsel in connection with her 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 _____ day of _____, 2021.

Julie Chovanes, Esquire

Sworn to and subscribed
Before me on this _____
day of _____, 2021

Notary Public

Joint Petition are true.

6. She submits this affidavit because she knows that if charges predicated upon the matter under investigation were filed, or continued to be prosecuted in the pending proceeding, she could not successfully defend against them.

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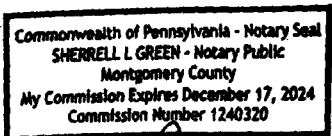
It is understood that the statements made herein are subject to the penalties of 18 Pa.C.S.A. §4904 (relating to unsworn falsification to authorities).

Signed this 5th day of August, 2021.

Julie Chovanas
Julie Chovanas, Esquire

Sworn to and subscribed
Before me on this 6
day of August, 2021

[Signature]
Notary Public



BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :
 Petitioner :
 : ODC File No. C1-19-927
v. :
 : Atty. Reg. No. 50176
Julie Chovanes, :
 Respondent : (Philadelphia County)

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing document upon all parties of record in this proceeding in accordance with the requirements of 204 Pa. Code §89.22 (relating to service by a participant).

First Class Mail and Email, as follows:

Julie Chovanes, Esquire
Chovanes Law
P. O. Box 4307
Philadelphia, PA 19118
jchovanes@chovanes.com

Dated:

P-10-21

Michael D. Gottsch

Michael D. Gottsch
Disciplinary Counsel
Office of Disciplinary Counsel
District I Office
1601 Market Street
Philadelphia, PA 19103
(215) 560-6296

CERTIFICATE OF COMPLIANCE

I certify that this pleading 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: Michael D. Gottsch

Name: Michael D. Gottsch

Attorney No. (if applicable): 39421