***People v. Synthia Kaye Morris*. 16PDJ015. December 2, 2016.**

A hearing board suspended Synthia Kaye Morris (attorney registration number 18397) from the practice of law for twenty-four months, effective January 18, 2017.

Morris was hired by a client whose soon-to-be ex-husband had filed an emergency motion seeking custody of the couple's infant daughter, based on allegations that the client had illegally transported the child to Canada. When Morris was retained—shortly before the hearing on the emergency motion—she did not tell her client that she would be on vacation during the upcoming hearing, nor did she give her client a written explanation of her legal fees. Morris then failed to arrange for counsel to cover the hearing or to file any documents with the court in advance of the hearing. As a result, the court ordered the infant's immediate return to the father. When Morris later neglected to communicate with her client, the client terminated the representation. Morris then refused to provide an accounting, and she delayed about three months in returning the client's unearned fees.

In determining the appropriate sanction, the hearing board also considered highly persuasive evidence that Morris fabricated certain documents she used at the disciplinary hearing in an effort to refresh a witness's recollection.

In the underlying matter, Morris violated Colo. RPC 1.3 (a lawyer shall act with reasonable diligence and promptness when representing a client); Colo. RPC 1.4(a)(3) (a lawyer shall keep a client reasonably informed about the status of the matter); Colo. RPC 1.5(b) (a lawyer shall inform a client in writing about the lawyer's fees and expenses within a reasonable time after being retained, if the lawyer has not regularly represented the client); Colo. RPC 1.15(A)(b) (upon receiving funds or other property of a client or third person, a lawyer shall promptly deliver to the client or third person any funds or property that person is entitled to receive); Colo. RPC 1.16(d) (a lawyer shall protect a client's interests upon termination of the representation, including by giving reasonable notice to the client and refunding unearned fees and any papers and property to which the client is entitled); and Colo. RPC 8.4(c) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation).

Please see the full opinion below.

SUPREME COURT, STATE OF COLORADO ORIGINAL PROCEEDING IN DISCIPLINE BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE 1300 BROADWAY, SUITE 250 DENVER, CO 80203	
Complainant: THE PEOPLE OF THE STATE OF COLORADO **Respondent:** SYNTHIA KAYE MORRIS	Case Number: **16PDJ015**
OPINION AND DECISION IMPOSING SANCTIONS UNDER C.R.C.P. 251.19(b)	

Synthia Kaye Morris ("Respondent") represented a client whose soon-to-be ex-husband had filed an emergency motion seeking custody of the couple's infant daughter, based on allegations that the client had illegally transported the child to Canada. When Respondent was retained shortly before the hearing on the emergency motion, she did not tell her client she would be on vacation during the upcoming hearing, nor did she give her client a written explanation of her legal fees. Respondent then failed to arrange for counsel to cover the hearing or to file any documents with the court in advance of the hearing. As a result, the court ordered the infant's immediate return to the father. When Respondent later neglected to communicate with her client, the client terminated the representation. Respondent then refused to provide an accounting and delayed about three months in returning the client's unearned fees. Respondent's violation of Colo. RPC 1.3, 1.4(a)(3), 1.5(b), 1.15A(b), 1.16(d), and 8.4(c) warrants a suspension for twenty-four months.

I. PROCEDURAL HISTORY

On February 18, 2016, Katrin Miller Rothgery, Office of Attorney Regulation Counsel ("the People"), filed a complaint with Presiding Disciplinary Judge William R. Lucero ("the PDJ"), alleging that Respondent had violated Colo. RPC 1.3, 1.4(a)(2), 1.4(a)(3), 1.5(a), 1.5(b), 1.15A(b), 1.16(d), 8.4(c), and 8.4(d).

On March 14, 2016, the day her answer was due, Respondent sent a motion for an extension to the PDJ's outdated mailing address,[1] asserting that she was busy with various matters. Because Respondent had misdirected the motion, the PDJ did not receive it, and it

[1] The PDJ's office had not occupied that address since March 2013, and the caption of the People's complaint bore the PDJ's current address.

was returned to her. The People moved for default on March 22, 2016. Respondent filed a second motion for extension on March 29, claiming that she needed an unspecified additional period of time to find counsel. After considering Respondent's response to the motion for default, the PDJ ruled on April 6 that Respondent's filing evinced an intention to defend the case, so the PDJ denied the motion for default, granted Respondent's motion for an extension, and ordered her to answer the complaint by April 13.

On April 15, 2016, the PDJ received a third motion for extension from Respondent, which was dated April 11. In the motion, Respondent cited work deadlines, a family emergency, and her desire to hire counsel. She alleged that she had an appointment scheduled on April 13 with attorney Alexander Rothrock, who had informed her that a two-week extension would permit him to prepare an answer on her behalf. The People opposed Respondent's request. The People noted that she had suggested to them the day *after* she claimed to have an appointment with Rothrock that attorney Bennett Aisenberg would represent her in this case; thus, argued the People, the PDJ should not take into account the two-week extension allegedly proposed by Rothrock. On April 20, the PDJ denied Respondent's motion, ordering her to answer no later than April 22, which she did pro se. The case was then set for a hearing to take place September 7-9, 2016.

The People moved for sanctions under C.R.C.P. 251.18(d) and 37(d) on August 15, 2016, arguing that Respondent never provided initial disclosures as the PDJ's scheduling order had required her to do by May 17 and that she never responded to the People's interrogatories, requests for production of documents, and requests for admission. One day later, the People notified the PDJ that they had just received Respondent's discovery responses, but asserted that these responses were deficient because, among other things, Respondent failed to address certain interrogatories and neglected to provide any documents. The People then filed a second motion for sanctions on August 30, noting that Respondent had also failed to file or provide to the People any witness list, exhibit list, copies of exhibits, hearing brief, or memorandum of legal authority, as required by the scheduling order. By order of August 31, the PDJ found that Respondent had failed to comply with the scheduling order, so the PDJ deemed two requests for admission admitted, barred her from introducing any exhibits during the hearing, precluded her from calling any witnesses other than those she had identified on a preliminary witness list, and denied her the right to submit a hearing brief or legal authority in advance of the hearing. The PDJ noted that Respondent could testify at the hearing and make oral arguments based on legal authority.[2]

At 4:03 p.m. on September 6, 2016, the very eve of trial, Respondent filed a "Notice of Illness and Motion for Continuance."[3] Upon receiving the motion, the PDJ's administrator attempted to contact Respondent by telephone and email to hold a status conference late

[2] The PDJ later denied Respondent's motion for reconsideration of this order.

[3] Attached to her motion was a two-sentence note from a nurse, indicating that Respondent had been seen at an emergency room and should be on bed rest until September 10, 2016. Respondent provided no other medical information substantiating her claim of illness.

that afternoon but was unable to reach her. The PDJ had no choice but to continue the hearing. At a status conference on September 7, 2016, the PDJ reset the matter for a one-day hearing to be held on September 21, 2016.

At the September 21 hearing, the PDJ presided along with Hearing Board members Steven L. Terry and John E. Hayes, Esq. Rothgery represented the People, and Respondent appeared pro se. At the outset of the hearing, Respondent again moved to continue the hearing, claiming that two attorneys were now willing to represent her, but the PDJ denied the motion as untimely. During the hearing, the Hearing Board considered the People's exhibits 1-8, 10a, 10b, 12-14, and 16-24, and the testimony of Gabrielle Bow,[4] Dianna Harris, Dennis Yoder, and Respondent.[5]

Also during the hearing, Respondent used a certain document during cross-examination of Yoder in an effort to refresh his recollection. The People claimed they had never seen this document, so the PDJ ordered Respondent to provide a copy to them.[6] Shortly after the hearing ended, the People asked the PDJ to return to the bench to address an issue that had arisen concerning this document. The People asserted that when they requested a copy of the document at the end of the hearing, Respondent claimed she could not find it. The PDJ again ordered Respondent to provide the document to the People, noting that the Hearing Board had observed her placing the document in her files after Yoder's cross-examination. In a status report filed on September 23, the People asserted that Respondent sent them a PDF copy of the document on the evening of September 21 and that the PDF appeared to match the document Respondent used during the hearing. But the People expressed concern that the PDF might have been different from the document used at the hearing because the PDF's electronic properties indicate it was created after the hearing.

II. FACTS AND RULE VIOLATIONS

Respondent took the oath of admission and was admitted to the bar of the Colorado Supreme Court on April 27, 1989, under attorney registration number 18397. She is thus subject to the jurisdiction of the Colorado Supreme Court and the Hearing Board in this disciplinary proceeding.[7]

[4] Bow testified by telephone, in accordance with the PDJ's earlier order granting the People's motion for absentee testimony.

[5] Because the name of a minor child was used during the hearing, the PDJ **SUPPRESSES** the recording of the hearing and any later-produced transcript of the hearing. The PDJ also **SUPPRESSES** page 0242 of Exhibit 7 because it mentions the child's name.

[6] *See* CRE 612 (providing that if a witness uses a writing to refresh his or her memory for the purpose of testifying, the court may require the writing to be produced to the adverse party).

[7] *See* C.R.C.P. 251.1(b).

Findings of Fact[8]

This disciplinary case centers on Respondent's representation of Gabrielle Bow, currently a college student living in Canada who earns a living by cleaning houses.[9] In 2014, Bow was enmeshed in divorce proceedings filed by her husband, Erlon Calderon, in El Paso County District Court. Bow traveled from Colorado to Canada with the couple's infant daughter, A.C., after Calderon granted permission for the child's travel in a notarized letter.[10] After she and A.C. arrived in Canada, Bow said, Calderon withdrew thousands of dollars from the couple's bank account and terminated the lease on her Colorado apartment, making it impossible for her to return to Colorado. In August or September 2014, Calderon filed an emergency motion for temporary orders in the El Paso County divorce case, alleging that Bow had illegally transported A.C. to Canada and seeking custody of the child.[11]

On September 4, 2014, the day after she was served with Calderon's emergency motion, Bow hired Respondent to represent her in the divorce and to resolve the pending motion. A family friend had recommended Respondent, a long-time solo practitioner in Colorado Springs specializing in family law. Bow paid Respondent a $3,000.00 retainer four days later,[12] with the assistance of her mother, who sold her car to raise the funds. Bow testified that she did not receive a written fee agreement or explanation of what the retainer would be used for. Respondent, meanwhile, testified that she sent Bow a fee agreement that, among other things, listed an hourly rate of $250.00.

The El Paso County court set a hearing on Calderon's motion for September 18. Before Bow hired her, Respondent had planned an Alaskan vacation to begin on September 14 or 15. Respondent insists that she arranged with Colorado attorney Dennis Yoder to cover this hearing and that she informed Bow of her travel plans and the hearing coverage arrangement. Bow credibly testified at the disciplinary hearing, however, that she expected Respondent to attend the September 18 hearing; she said she was "positive" that Respondent never told her otherwise. Had she known that Respondent would be absent, Bow testified, she might have elected not to hire her.

At 11:54 p.m. on September 17, while on vacation in Alaska, Respondent attempted to file several documents on Bow's behalf via the court's ICCES e-filing system: an entry of appearance, a response to Calderon's motion, hearing exhibits, and a proposed order.[13] She said that internet outages in Alaska and difficulties with file formats prevented her from successfully filing the documents earlier in the day.[14] According to Respondent, ICCES clerks

[8] Where not otherwise noted, these facts are drawn from testimony offered at the disciplinary hearing.
[9] At the time of the events underlying this case, her name was Gabrielle Bow-Calderon.
[10] *See* Ex. 7 at 0242.
[11] The Hearing Board is uncertain of the date and other specifics of the motion because it was not admitted into evidence.
[12] Ex. 2.
[13] Ex. 3 at 0034.
[14] The Hearing Board has no evidence to corroborate Respondent's testimony of her earlier attempted filing.

in El Paso County begin work at 6:00 or 7:00 a.m., so she thought the court would receive the filings before the 10:30 a.m. hearing on September 18. But because Respondent mistyped the case number in ICCES, her filings were rejected. She also testified that she meant to call the court the morning of September 18 to ensure the magistrate would see her filings before the hearing, but that the medicine that she took for a headache caused her to sleep through her alarm clock. She never made the call.

When the September 18 hearing began, the court had not received any filings from Respondent and, as discussed further below, neither Yoder nor any other attorney appeared in Respondent's stead. Calderon appeared at the hearing pro se. Shortly after the hearing, the court issued a minute order stating that Bow was not present despite receiving proper service and ordering A.C.'s return to Calderon's custody within forty-eight hours.[15]

Just before noon on September 18, after the hearing had concluded, Respondent successfully e-filed three documents: an entry of appearance, a response to the emergency motion, and a notice of filing addendum to the response.[16] In the response, Respondent made various factual allegations about Bow's trip to Canada and Calderon's actions but did not, oddly, mention Calderon's letter of permission for A.C. to travel with Bow.[17] The response also noted that a return of service had not been filed with the court and stated that Respondent herself would be on vacation on September 18.[18] Respondent concluded by asserting there was no need for an emergency hearing and requesting that the court continue the hearing until she returned from her vacation.[19] In the notice of filing addendum, Respondent asserted she had no access to the internet, described her ICCES difficulties, again noted that ICCES did not indicate any return of service had been filed, and attached a copy of Calderon's letter of permission, though Respondent did not call the court's attention to Calderon's letter in the notice itself.[20]

Later that afternoon, Respondent filed a "Forthwith Motion to Stay/Set Aside Order to Return the Child."[21] In that motion, she alleged that there had been an unspecified "miscommunication as to whether Counsel needed to be present at the hearing," that "[t]here was miscommunication about coverage for the hearing," and—in apparent contradiction—that "due to the return of service not being filed with the Court, the Respondent believed that the Court would not hear the case on September 18, 2014."[22] This last contention lacked merit, since the court's September 4 minute order stated that

[15] Ex. 4.
[16] Exs. 5-7.
[17] Ex. 6.
[18] Ex. 6.
[19] Ex. 6.
[20] Ex. 7.
[21] Ex. 8.
[22] Ex. 8.

Calderon was to "file proof of service with the court prior to [September 18] *or bring the proof of service to the court date*."[23]

Also during the afternoon of September 18, Calderon emailed Bow, forwarding a copy of the court's minute order and threatening to call the border patrol.[24] When Bow received this email, she had not yet learned the outcome of the hearing from Respondent. Bow recalls feeling "in panic" and "completely broken" because A.C. had never spent more than two hours alone with Calderon, and Bow did not trust him to care for the child. After unsuccessful attempts to reach Respondent by phone, Bow emailed her, asking "[d]id nobody show up in court to represent me today?"[25] Respondent responded later that afternoon, saying that her filing "didn't go through electronically" and that the magistrate "hadn't seen the documents when she entered the order for you to return the child."[26] She told Bow the magistrate would "probably make a new ruling today."[27] When Bow asked if she needed to relinquish A.C., Respondent replied, "For right now, I wouldn't turn her over . . . . I have never heard of a Judge ordering that such a young child be taken away from the primary caretaker. So you should be okay. We will wait to hear from the Judge . . . ."[28]

The next morning, Bow emailed Respondent again, asking if there were any developments and saying it would "completely tear [her] apart" to cede custody of A.C.; she said she would worry for her daughter's safety since she adjudged Calderon to be "unstable."[29] Respondent replied, saying she had no news but counseling Bow, "If you don't trust him then don't turn get [sic] over to him."[30] When Bow then asked if she could be arrested if she did not surrender A.C., Respondent told her that the border patrol had no authority to arrest her.[31] On September 20, Respondent emailed Bow to say that she had just learned the judge was in a murder trial, so review of the motion might be delayed.[32] Even though the forty-eight-hour window for Bow to relinquish A.C. had by that time elapsed, Respondent did not recommend in her email that Bow turn the child over or advise Bow that she could be held in contempt if she failed to do so.

Bow did not cede custody of A.C. to Calderon during the initial forty-eight-hour window for compliance or, indeed, at any time later that autumn. According to Respondent, she advised Bow to relinquish A.C. in phone conversations that took place after the emails

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[23] Ex. 1 (emphasis added). According to Bow, Respondent had never mentioned a strategy of not appearing at the hearing if a return of service had not been filed.
[24] *See* Exs. 10A & 10B.
[25] Ex. 10A.
[26] Ex. 10A.
[27] Ex. 10A.
[28] Ex. 10A.
[29] Ex. 10A.
[30] Ex. 10A.
[31] Ex. 10A.
[32] Ex. 10A. It appears that Respondent's motion for reconsideration was ultimately denied, but the timing and details are unclear.

quoted above. Respondent also said that she warned Bow she could be held in contempt. Bow neither challenged nor confirmed Respondent's testimony clearly on these points.

As to Yoder's failure to cover the September 18 hearing, Respondent testified that she did not remember during the People's investigatory interview which attorney she had asked to cover the hearing, but in August 2016, while cleaning out her email inbox, she stumbled upon emails in which she asked Yoder to cover the hearing and he agreed to do so.

Yoder, meanwhile, testified that he could not recall discussing the Bow matter with Respondent. He said that he generally takes "fairly copious notes," but he could find no notes or calendar entries about Bow, nor could his paralegal locate any such entries. He also said he probably would not have agreed to cover an emergency hearing in a hotly contested matter such as this because he would not have felt comfortable handling such a hearing on his own. Though he has been a licensed lawyer for nearly fifty years, he spent the vast majority of those years as a military lawyer and in-house counsel, and he views himself as a "novice" in family law. He said that if he had agreed to cover such a hearing, his notes almost certainly would have reflected as much. In addition, he said he did find a note in his files about a meeting that he had with Respondent on September 25, 2014, but the note said that they had merely discussed her recent vacation, not any client-related matter.

On cross-examination, Respondent asked Yoder if it was possible that she had sent him an email requesting that he cover Bow's hearing. He responded yes. Respondent then sought to refresh Yoder's recollection by asking him to review a document. The document purported to be a reproduction of two emails dated September 12, 2014, in which Respondent requested Yoder's help to cover Bow's hearing and Yoder agreed to assist. The People objected to Respondent's use of this document to refresh Yoder's recollection because she had not disclosed the document, but the PDJ reluctantly allowed Respondent to proceed. When Yoder reviewed the document, however, he said he still did not have a refreshed memory of this email communication.

After Yoder concluded his testimony, the PDJ granted the People's request to allow Yoder to search for the emails in question on the tablet he had brought to the hearing. After a fifteen-minute recess, Yoder testified that he could locate no such emails in his folders for sent or received emails. He noted that he keeps emails "forever," and he did find another email he sent to Respondent about a different topic on September 12, 2014. He added that he had never known Respondent to misrepresent facts, so he did not doubt her account. The Hearing Board found Yoder's factual testimony to be very credible because he appeared to be highly detail-oriented and committed to assisting the truth-seeking process, while also desiring to support Respondent where possible. Relying in large measure on Yoder's persuasive testimony and his fruitless search for the emails in question, we determine by clear and convincing evidence that Respondent never in fact asked Yoder to cover the September 18 hearing. We further find by clear and convincing evidence that Respondent

used fabricated evidence at the disciplinary hearing in an effort to elicit factually incorrect testimony from Yoder.

Returning to Respondent's handling of Bow's divorce case, the court's September 18 order directing A.C.'s return remained in force throughout fall 2014 but Bow did not comply with the order. Respondent set a mediation regarding the limited issue of A.C.'s custody for 11:00 a.m. on October 16.[33] When Respondent informed Bow by email on October 6, Bow responded right away, asking, "Will you be appearing there as well? And how do I go about paying that? And do they call me or do I call in? Sorry so many questions, I just don't know much about mediation at all."[34] Respondent did not answer. Bow followed up on October 14, asking her to call.[35] The next day, Bow again emailed Respondent, saying, "Tomorrow is mediation and I still don't know what is going on, I have no idea whether I call in, they call me, if you'll be there, what I say, what mediation even is . . . etc."[36] Bow repeated her request that Respondent call her.[37] At the disciplinary hearing, Bow said Respondent never called her to answer her questions. Respondent testified that she probably did not communicate in detail with Bow about the mediation because it was "not confirmed." She elaborated that Calderon had not confirmed his attendance and she asserted, contrary to Bow's testimony, that she spoke to Bow by phone about that fact. The mediation was ultimately cancelled.

On October 17, 2014, Bow hired Colorado Springs attorney Dianna Harris to represent her in the divorce. Harris's retainer was $10,000.00. Harris testified that she immediately sent a substitution of counsel form to Respondent, also requesting the full refund of Bow's retainer. Respondent signed the substitution of counsel form on October 20 but did not send a refund. On October 28, Harris's assistant emailed Respondent, noting that she had not replied to the refund request.[38] Respondent responded, saying she would forward a check to Harris's office as soon as she received an invoice from "the attorney that assisted with the investigating to [sic] the hacking of Ms. Bow's email account."[39] Respondent testified that she had contacted an attorney who specializes in cybersecurity about Bow's concerns regarding possible hacking of her email account. Ultimately, Respondent said, that attorney never charged for his work.[40] Respondent contends that she directly mailed Bow a refund check on November 3. There is no evidence to support this assertion. Respondent testified that she had no copies of any transmittal letter, and though she originally had a

[33] Ex. 12.
[34] Ex. 12.
[35] Ex. 13.
[36] Ex. 14.
[37] Ex. 14.
[38] Ex. 16.
[39] Ex. 16.
[40] We doubt that Respondent genuinely believed any such invoice was forthcoming from another attorney. We note, among other things, that Respondent was questioned twice at the disciplinary hearing about the legal work she performed for Bow, and in each case she provided lengthy answers that did not mention communicating with another lawyer about an email hacking issue. Neither Bow nor Respondent testified that the scope of representation was to include this issue.

carbon copy of the check, she has since lost track of it. Respondent did not testify that the check was ever cashed.

On December 15, 2014, Harris's assistant emailed Respondent again, saying that the office had not yet received any check.[41] Respondent replied the next day, stating, "I will write another check. Not sure what happened to the other!!"[42] On December 17, Respondent wrote a check to Harris; the check was internally inconsistent, reading both "1300.00" and "Thirteen and no—."[43] On January 5, 2015, Harris's paralegal sent a copy of the check to Respondent, noting that the bank had refused to accept the check and requesting a full refund of the $3,000.00 retainer.[44] In a separate email, Harris's paralegal noted that Bow had never received an invoice indicating how the $1,700.00 was spent, and requested an invoice as well as a copy of the signed fee agreement.[45] Respondent replied, "I can't believe I did that. I will reissue it."[46] She did not respond about the invoice issue, though at the disciplinary hearing she testified—again without documentary support—that she did send Bow an invoice in early November. She also said that she believed an invoice was a confidential part of a client's file that she could not give to another attorney without the client's permission. She did not voice this concern in her emails to Harris's office, however.

On January 16, 2015, Harris's assistant once more emailed Respondent, noting that the office still had not received a replacement check or the invoice or fee agreement.[47] Respondent responded on January 16, alleging there had been a "mix up" because "I thought you would be returning the check which I sent back to me [sic]."[48] Three days later, Respondent emailed again to say she had remailed the check.[49] Harris's office did receive that check for $1,300.00. Respondent still did not address the invoice or fee agreement request, however. By email of February 26, Harris's office again requested the invoice from Respondent.[50] She replied on March 2, stating without elaboration, "I didn't realize that she hadn't received the invoice since I had resent it to her."[51] Respondent did not attach the invoice or fee agreement to her email.[52] Indeed, according to Harris and Bow, Respondent never did give either of them these documents.

Harris filed a request for investigation of Respondent in February 2015. Respondent thereafter sent the People an invoice for her representation of Bow, though the invoice was

[41] Ex. 17.
[42] Ex. 18. Respondent was presumably referring to the check she claimed to have mailed Bow on November 3.
[43] Ex. 19.
[44] Ex. 20.
[45] Ex. 21.
[46] Ex. 21.
[47] Ex. 21.
[48] Ex. 22.
[49] Ex. 22.
[50] Ex. 23.
[51] Ex. 24.
[52] Ex. 24.

not admitted into evidence at the disciplinary hearing. Respondent testified that she did not charge Bow for any work after the problems with e-filing on September 17. She said she earned $1,700.00 through telephone calls and emails with Bow, reviewing the court file, her attempts to communicate with Calderon, and other work.

In regard to Harris's invoice and fee agreement requests, Respondent noted that she "probably didn't respond to things as timely as I should have" in February or March 2015 because she was doing physical therapy about three times a week to treat back spasms. Respondent also faulted Harris for communicating through her assistants rather than contacting her directly. When asked on cross-examination why she never returned Respondent's phone calls, Harris responded that it is her practice to keep records of all calls to her office, but she has no record of Respondent ever calling her office, nor does any of Harris's staff recall receiving any calls from Respondent.

Bow sued Respondent in small claims court for the return of $1,700.00. Respondent defaulted in that case, and as of the date of the disciplinary hearing she had not paid the judgment.

Circling back to Bow's divorce case, the court convened a temporary orders hearing on December 8, 2014. Harris called Respondent as a witness because Bow's "credibility was in the bottom of the barrel" as a result of her failure to comply with the court's order to relinquish A.C., and Harris wanted the magistrate to understand that Bow was acting in accordance with Respondent's directions. After the hearing, Bow temporarily lost custody of A.C., who spent one week with Calderon.[53] Bow testified that this experience was "traumatizing" for the girl, who then had night terrors for a month and would scream at the sight of a crib. She also said that Calderon refused to communicate with her about A.C.'s well-being during that visit, forcing her to call the police.

In Harris's view, Respondent's failure to appear or to ensure that Bow appeared at the September 18 hearing had a lasting impact on Bow's case. Harris believes this nonappearance and Bow's failure to surrender A.C. as ordered diminished Bow's credibility in the eyes of the court and affected the parenting time decision. Ultimately, Harris said, the case reached a mediated resolution, though the Hearing Board did not learn the nature of the resolution.

As a final factual note, the People observed at the disciplinary hearing—and the PDJ confirmed in the case file—that Respondent was on disciplinary probation in consolidated case numbers 10PDJ037 and 11PDJ005 at the time of the events in Bow's case. When asked whether she understood this, however, Respondent said she did not believe she was on

[53] It appears that the court granted Calderon custody of A.C. for one week per month. Bow's testimony suggested that A.C. in fact spent only one week with her father. It is not clear to the Hearing Board why no further weekly visits took place, but perhaps the mediated resolution of the case did not extend the requirement for monthly visits.

probation. Respondent testified that she recently received an unspecified diagnosis that requires her to reduce her stress level and the number of hours she works, and she plans to shutter her law practice by the end of 2016.

We set forth some credibility assessments in the factual findings above, but we take this opportunity to make a more global determination as to witness credibility in this case. We conclude that Bow, Harris, and Yoder were credible witnesses but Respondent was not. Time and again, she cast blame elsewhere for her own failings, faulting internet connections, medicine, medical conditions, the U.S. Postal Service, different attorneys, Bow, and others for her own conduct. Her assertions of blame, however, found not a whit of support in the documentary evidence or testimony presented in this case. Our conclusion as to Respondent's credibility is bolstered by the highly persuasive evidence that she fabricated the emails she used in an effort to refresh Yoder's recollection. Moreover, just hours after the Hearing Board observed Respondent assuming custody of that document, she attested that she could not locate it. Respondent's testimony and actions in this disciplinary case thus demonstrate her pattern of disregarding the truth.

Rule Violations

The People allege that Respondent violated nine separate Rules of Professional Conduct in her representation of Bow. We consider each claim in turn.

The People's first claim is premised on Colo. RPC 1.3, which requires a lawyer to act with reasonable diligence and promptness in representing a client. The People contend that Respondent violated this rule by failing to file anything with the court before the September 18 hearing and not appearing at that hearing. The Hearing Board concludes that the People have proved this claim by clear and convincing evidence. Respondent was not reasonably diligent in filing documents with the district court. The stakes of this hearing were very high for Bow, calling for heightened diligence on Respondent's part. Given our assessment of Respondent's credibility, we are not convinced that she in fact attempted to file the documents during the daytime of September 17. Regardless of when on September 17 she attempted to file the documents, it is clear that she did not exercise the requisite care to ensure the filings would be accepted. She also took inadequate back-up measures, neglecting to check in with the court clerk or to enlist any other attorney's assistance in either following up on the filings or attending the hearing. In short, Respondent's efforts fell far short of what was reasonably called for to protect the urgent interests of her client.[54]

In Claim II, the People assert that Respondent violated Colo. RPC 1.4(a)(2), which states that a lawyer shall "reasonably consult with the client about the means by which the client's objectives are to be accomplished." According to the People, Respondent failed to

[54] *See, e.g., People v. Mannix*, 936 P.2d 1285, 1287 (Colo. 1997) (ruling that an attorney's failure to appear at a client's hearings violated Colo. RPC 1.3).

discuss with Bow her "strategy" of waiting to see whether a return of service would be filed before responding to Calderon's motion. We are not convinced, however, that Respondent in fact relied on such a strategy. If she did not rely on that strategy, then it would not amount to a "means by which the client's objectives are to be accomplished" under Colo. RPC 1.4(a)(2). Here, Respondent made only passing arguments about the absence of a return of service in her response to Calderon's motion and notice of filing addendum, while the crux of her argument to the court was that the September 18 hearing should be vacated because an emergency hearing was not necessary and because she was traveling out of state.[55] Thus, we cannot find that the evidence supporting this claim meets the clear and convincing standard of proof.

In Claim III, the People advance a second communication-based claim: that Respondent failed to keep Bow reasonably informed about the status of her matter, as required by Colo. RPC 1.4(a)(3). The People assert that Respondent never told Bow she would not attend the September 18 hearing, that she did not tell Bow that she failed to respond to Calderon's motion before the hearing, and that she neglected to keep Bow informed about the mediation and how to prepare for the mediation. Based on our credibility assessment set forth above, we believe Bow's testimony that Respondent never mentioned her vacation plans and never responded to her requests for information about the mediation. The emails introduced into evidence buttress Bow's account, while no evidence supports Respondent's account. Bow's recollection about Respondent's failure to discuss with her the upcoming mediation is also bolstered by the fact that Bow elected to terminate Respondent's representation immediately after the period of alleged non-communication, on October 17. Taking all of these circumstances into account, we conclude that the People have proved this claim.

Next, the People allege in their fourth claim that Respondent violated Colo. RPC 1.5(a), which prohibits a lawyer from charging an unreasonable fee. The People say that Respondent transgressed this rule by missing the September 18 hearing, failing to file documents for Bow before the hearing, and charging Bow for work done after the court issued its September 18 minute order. Yet the evidence strongly suggests that Respondent did perform some legitimate work for Bow, including familiarizing herself with Bow's file, talking with Bow about the case, and setting mediation. The People did not introduce Respondent's invoice into evidence, so we lack any proof that she charged Bow for work that should not have been billed or charged an unreasonably high fee for work she did complete.[56] We thus conclude that the People have not carried their burden to adduce clear and convincing evidence of this alleged violation.

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[55] Although the evidence suggests that Respondent did not consult with Bow about the strategy of seeking a continuance of the hearing, the People did not premise Claim II on this factual allegation, so we cannot find a rule violation on this basis. *See In re Green*, 11 P.3d 1078, 1088 (Colo. 2000).

[56] We note that the small claims court judgment in Bow's favor was premised on Respondent's default, not on any factual findings that Respondent did not earn the $1,700.00 in question.

The People's fifth claim alleges that Respondent failed to explain her fee to Bow. Colo. RPC 1.5(b) states that if a lawyer has not regularly represented a client, the lawyer must communicate the basis or rate of the fee and expenses to the client, in writing, within a reasonable time after commencing the representation. Here, Respondent attested that she did send Bow a fee agreement, but Bow flatly disagrees. Harris's testimony and the emails sent and received by her office also indicate that Respondent disregarded Harris's request for the fee agreement. Given Respondent's shaky credibility and the absence of any evidence supporting her testimony, such as a copy of a letter transmitting the fee agreement to Bow, we find Bow's account significantly more persuasive. Accordingly, we find that Respondent violated Colo. RPC 1.5(b).[57]

In Claim VI, the People assert that Respondent failed to timely give Bow an accounting, thus violating Colo. RPC 1.15A(b), which requires a lawyer to provide a full accounting regarding client property promptly upon request. The testimony and evidence clearly and convincingly show that Respondent failed to timely provide an accounting to Bow, despite repeated requests. We thus find that the People have proved this claim.

The People assert in Claim VII that Respondent transgressed Colo. RPC 1.16(d), which provides that, upon termination of representation, a lawyer must refund any unearned fees. The People argue that Respondent failed to provide any refund to Bow for nearly three months and then provided only a partial refund. We agree that Respondent did not timely provide a refund. Indeed, we believe that her three-month delay in transmitting the check for $1,300.00 reflected dishonest delay tactics. After Harris's office requested a refund on October 17, 2014, Respondent alternately disregarded communications from Harris's office and proffered flimsy excuses. She first said she needed to wait for an invoice from another attorney, but that attorney did not in fact bill for any work, nor is there any basis in the testimony or evidence to believe such a bill would be forthcoming. She next asserted that she had sent Bow a check, but there is no evidence to support her claim. She then sent Harris a faulty check that could not be deposited. This parade of pretexts is incredible. Because it took Respondent three months after the initial refund request to remit the funds, we find she violated Colo. RPC 1.16(d).[58] We do not premise this determination, however, on a conclusion that Respondent should have provided a full refund, since we lack evidence showing that she did not earn the $1,700.00 that she retained.

The People's eighth claim is that Respondent contravened Colo. RPC 8.4(c), which interdicts conduct involving dishonesty, fraud, deceit, or misrepresentation. The People allege Respondent violated this rule by accepting the representation and Bow's retainer without informing Bow that she would be unavailable to attend the September 18 hearing—the purpose for which Bow hired her. The People have proved this claim. As noted above,

[57] *See, e.g., In re Wimmershoff*, 3 P.3d 417, 419 (Colo. 2000) (finding a violation of Colo. RPC 1.5(b) where the attorney did not adequately explain the basis of his fee to the client).

[58] *See, e.g., People v. Hohertz*, 898 P.2d 1068, 1069 (Colo. 1995) (finding a violation of Colo. RPC 1.16(d) where a lawyer did eventually refund clients' unearned legal fees but did not do so in a timely fashion).

Bow credibly testified that she expected Respondent to defend her interests at the September 18 hearing, while Respondent's contrary account lacked credibility. Respondent's availability to attend the hearing was a critical piece of information for Bow, who was relying on a personal recommendation of Respondent's services in a matter involving the frightening possibility of losing custody of her infant daughter. Respondent should have informed Bow of her inability to attend the September 18 hearing immediately upon being retained or, at a minimum, within several days thereafter.[59]

Ninth and last, the People charge that Respondent prejudiced the administration of justice in contravention of Colo. RPC 8.4(d). According to the People, Respondent's failure to attend the September 18 hearing resulted in the filing of additional motions, thus wasting the court's time and resources. In addition, the People claim, Respondent improperly advised Bow not to comply with the court's order. We lack persuasive evidence of Respondent and Bow's communication about compliance with the court order after the initial forty-eight-hour window elapsed, since Bow did not provide any clear testimony about this issue. We thus cannot gainsay Respondent's testimony that she did advise Bow to comply with the order after the forty-eight hours elapsed. As to the alleged waste of judicial resources, we do not find Respondent's level of culpability as to the September 18 hearing serious enough to warrant application of this rule. Although Respondent acted without the requisite diligence in seeking a postponement of the September 18 hearing, and although these efforts were insufficient to protect Bow's interests, Respondent did not affirmatively or deliberately subvert the process of resolving disputes or significantly frustrate the interests of justice.[60] While her conduct caused the court a modest amount of additional work, the real harm suffered here was by Bow. We find that Respondent's failings in regard to the September 18 hearing are adequately addressed in the other rule violations noted above.

III. SANCTIONS

The American Bar Association *Standards for Imposing Lawyer Sanctions* ("ABA *Standards*")[61] and Colorado Supreme Court case law guide the imposition of sanctions for lawyer misconduct.[62] When imposing a sanction after a finding of lawyer misconduct, a hearing board must consider the duty violated, the lawyer's mental state, and the actual or potential injury caused by the lawyer's misconduct. These three variables yield a presumptive sanction that may be adjusted based on aggravating and mitigating factors.

[59] *See, e.g., In re Carlson*, 745 A.2d 257, 258 (D.C. 2000) (finding that a lawyer violated RPC 8.4(c) by failing to give the client information that the lawyer had a duty to provide).
[60] *See, e.g., In re Friedman*, 23 P.3d 620, 628 (Alaska 2001); *In re Mason*, 736 A.2d 1019, 1023 (D.C. 1999).
[61] Found in ABA *Annotated Standards for Imposing Lawyer Sanctions* (2015).
[62] *See In re Roose,* 69 P.3d 43, 46-47 (Colo. 2003).

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

Duty: By misleading Bow at the outset of the representation, failing to exercise diligence, neglecting to communicate with Bow, and refusing to promptly render an accounting, Respondent violated her duties to her client. The ABA *Standards* denominate Respondent's failure to inform Bow in writing about her fee and failure to issue a prompt refund as violations of duties owed as a professional.

Mental State: The Hearing Board concludes that Respondent engaged in all of the misconduct in this matter with a knowing state of mind. We reach this conclusion, in part, because there appears to be no genuine mistake or misunderstanding underlying Respondent's actions and because her conduct consistently furthered her own interests, financial and otherwise.

Injury: Respondent's conduct harmed Bow in multiple ways. Respondent caused Bow anguish by significantly delaying the resolution of an issue that was critically important to her—the custody of her infant. If Respondent had informed Bow in advance of her vacation, Bow could have hired an attorney who was able to attend the September 18 hearing in person. Had this happened, or had Respondent secured coverage counsel, it appears likely that the court would have ruled in Bow's favor, given that Calderon had signed a permission letter and was acting pro se. Further, the Hearing Board credits Harris's assessment that Respondent's actions diminished Bow's credibility with the court, affecting later decisions in the divorce proceeding. Last, Bow, who was struggling financially, received very little benefit from the money she paid Respondent and she was deprived for several months of the refund to which she was entitled. We also find that Respondent harmed A.C. because her conduct in the case likely contributed to the court's decision to order A.C.'s one-week visit with Calderon, which was traumatizing for the child.[63]

ABA *Standards* 4.0-7.0 – Presumptive Sanction

Several ABA *Standards* establish the presumptive sanction here. ABA *Standard* 4.42(a) states that suspension is generally appropriate when a lawyer knowingly fails to perform services for a client and causes injury or potential injury to the client. ABA *Standard* 4.62 provides that suspension is typically warranted when a lawyer knowingly deceives a client, causing the client injury or potential injury. Last, suspension is also the presumptive sanction under ABA *Standard* 7.2, which applies when a lawyer knowingly engages in conduct that violates a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.

[63] We also note that Respondent's conduct in this proceeding caused potential harm to Yoder. Until it became clear that Respondent had fabricated evidence, her own testimony and her cross-examination of Yoder made it appear that he might be suffering from diminished mental capacity, given his inability to remember noteworthy events that Respondent insisted were supported by documentary evidence. Indeed, Yoder expressed consternation about his apparently failing memory.

The Hearing Board also notes that where multiple charges of misconduct are proved, the ABA *Standards* counsel that "[t]he ultimate sanction imposed should at least be consistent with the sanction for the most serious instance of misconduct among a number of violations; it might well be and generally should be greater than the sanction for the most serious misconduct."[64]

ABA *Standard* 9.0 – Aggravating and Mitigating Factors

Aggravating circumstances include any considerations that may justify an increase in the degree of the sanction to be imposed, while mitigating factors may warrant a reduction in the severity of the sanction.[65] The People proposed that we apply a raft of aggravating factors, while Respondent argued for application of just two mitigating factors, remoteness of prior offenses and remorse. As explained below, we elect to apply nine aggravating factors and no mitigators.

Prior Disciplinary Offenses – 9.22(a)/Remoteness of Prior Offenses – 9.32(m): Respondent has been disciplined twice in the last half-decade. In July 2011, she was suspended for thirty days, all stayed upon the successful completion of a two-year period of probation, with conditions including practice monitoring and ethics school. This discipline was premised on Respondent's conduct in three client representations. In the first, Respondent knowingly ignored court orders and failed to appear for trial, leading to entry of judgment against her clients. She also failed to appear for a contempt hearing. In a second client matter, Respondent violated an order issued by the court of appeals regarding transmission of a record. She also neglected to timely file a designation of record and to respond to an order to show cause, which delayed her client's appellate matter. In the third matter, Respondent did not competently represent her client in an eviction proceeding. Respondent's actions violated Colo. RPC 1.1, 1.3, and 8.4(d).

At the disciplinary hearing, Respondent suggested that ABA *Standard* 9.32(m) should apply in mitigation because it has been several years since her suspension. We do not agree. Only three years elapsed between the imposition of the suspension and Respondent's misconduct in the present case. Moreover, Respondent remained on disciplinary probation at the time of her misconduct in the case at bar. We thus consider Respondent's 2011 suspension in aggravation, though, as explained below, we treat her 2015 private admonition as part of a pattern of misconduct, rather than as an instance of prior discipline.

Dishonest or Selfish Motive – 9.22(b): As described above, we conclude that Respondent acted both dishonestly and selfishly in her representation of Bow. We weigh this factor in aggravation.

[64] ABA *Annotated Standards for Imposing Lawyer Sanctions* xx (2015).
[65] *See* ABA *Standards* 9.21 & 9.31.

Pattern of Misconduct – 9.22(c): In February 2015, Respondent was privately admonished based on her conduct in a divorce case in 2013. She engaged in unauthorized ex parte communications with a judge in violation of Colo. RPC 3.5(b). Colorado case law suggests that where rule violations in a prior disciplinary case have not been adjudicated before the occurrence of misconduct in the instant case, the past violations should be treated as part of a pattern of misconduct rather than as prior discipline.[66] We thus apply ABA *Standard* 9.22(c) in aggravation based on Respondent's 2015 private admonition.

Multiple Offenses – 9.22(d): Respondent engaged in myriad types of misconduct in this matter, and we thus apply this factor.

Bad Faith Obstruction of the Disciplinary Proceeding by Intentionally Failing to Comply with Disciplinary Rules or Orders – 9.22(e): The People press for application of this factor, arguing that Respondent failed to submit initial disclosures, to substantively respond to discovery requests, or to engage with the People in discussions regarding motions or prehearing materials. The Hearing Board finds that it would be inappropriate to premise application of this standard on Respondent's discovery-related shortcomings because the PDJ has already meaningfully sanctioned her for this conduct. We do, however, find it appropriate to apply this aggravator based on Respondent's failure to engage in prehearing communications. As the PDJ previously concluded by order of September 7, 2016, the People made substantial attempts to communicate with Respondent over the several months preceding the hearing to no avail.

We also agree with the People that we should apply this aggravator based on Respondent's failure to disclose the document purporting to represent Yoder's agreement to cover the September 18 hearing. C.R.C.P. 251.18(f)(4) and C.R.C.P. 26(a)(1) imposed upon Respondent the duty to disclose documents relevant to the claims in this case, while the PDJ's scheduling order imposed a continuing obligation to amend and supplement disclosures. This document went to a central issue in this case: whether Respondent diligently acted to protect Bow's interests at the September 18 hearing. Respondent's failure to disclose the document prevented the People from investigating its accuracy in advance of the hearing. Although Yoder did not in fact find that the document had refreshed his recollection and the document thus did not enable Respondent to successfully defend the Colo. RPC 1.3 charge, there was a substantial risk that Respondent's strategy would have succeeded.

Submission of False Evidence, False Statements, or Other Deceptive Practices During the Disciplinary Process – 9.22(f): As described above, we conclude by clear and convincing evidence that Respondent sought to elicit inaccurate testimony from Yoder by using a fabricated document in an attempt to refresh his recollection of events that did not in fact occur. Then, despite being ordered by the PDJ to turn over the document in question to the People, she claimed to have misplaced the document, interfering with the People's ability to

[66] *People v. Honaker*, 863 P.2d 337, 340 (Colo. 1993); *People v. Williams*, 845 P.2d 1150, 1152, 1152 n.3 (Colo. 1993).

preserve relevant evidence. Because Respondent has attempted to subvert this disciplinary proceeding, we apply significant weight in aggravation based on this factor.

Refusal to Acknowledge Wrongful Nature of Conduct – 9.22(g)/Remorse – 9.32(l): Although Respondent contends she should receive mitigating credit for her remorse, the Hearing Board finds without hesitation that she has not genuinely recognized the wrongfulness of her misconduct. Although she said there were things she could have done better, she also maintained that she did not "act unprofessionally," opining that "unfortunately, there were just a lot of things that didn't go right in this case." Moreover, she faulted multiple other parties for her own failings. Most serious, she blamed Yoder for his failure to cover the September 18 hearing when in fact she never asked him to do so. We apply this aggravating factor based on these circumstances.

Vulnerability of Victim – 9.22(h): Bow was a single, financially unstable mother of an infant, and she was residing in a foreign country. As such, Bow had limited ability to protect her own interests in the divorce proceeding and is properly deemed a vulnerable victim.

Substantial Experience in the Practice of Law – 9.22(i): Respondent has been licensed to practice law since 1989. She should have been well-habituated to following the Rules of Professional Conduct.

Analysis Under ABA *Standards* and Case Law

The Colorado Supreme Court has directed the Hearing Board to exercise discretion in imposing a sanction and to carefully apply aggravating and mitigating factors.[67] We are mindful that "individual circumstances make extremely problematic any meaningful comparison of discipline ultimately imposed in different cases."[68] Though prior cases are helpful by way of analogy, hearing boards must determine the appropriate sanction for a lawyer's misconduct on a case-by-case basis. The Colorado Supreme Court has suggested that cases predating the 1999 revision to this state's disciplinary system carry less precedential weight than more recent cases.[69]

The Hearing Board has been unable to locate Colorado Supreme Court case law involving the same mix of misconduct that is present in this case. The most comparable cases we have identified address neglect coupled with failure to take proper steps upon termination of representation, and we review three of those cases below.

In *People v. Fager*, the Colorado Supreme Court suspended for one year and one day a lawyer who engaged in misconduct in two client representations.[70] In the first, a divorce

[67] *See In re Attorney F.*, 285 P.3d 322, 327 (Colo. 2012); *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).
[68] *In re Attorney F.*, 285 P.3d at 327 (quoting *In re Rosen*, 198 P.3d 116, 121 (Colo. 2008)).
[69] *Id.*
[70] 925 P.2d 280, 281 (Colo. 1996).

case, Fager did not timely or properly disclose expert witnesses and committed other discovery violations, leading the court to preclude witness testimony supportive of Fager's client.[71] Fager then failed to provide an accounting and to refund unearned fees to the client.[72] In the second matter, Fager was given fees to prepare a new will for a client.[73] He never prepared the new will, nor did he return unearned fees or the copy of the old will he had been given.[74] In determining the appropriate length of suspension, the Colorado Supreme Court took into consideration six aggravating factors and no mitigators.[75]

The Colorado Supreme Court likewise suspended a lawyer for a year and a day in *People v. Honaker*.[76] There, Honaker failed to respond to a motion for summary judgment in a case involving ownership of water rights, resulting in entry of judgment against his clients.[77] He then refused to return the clients' file, and the clients were unable to persuade the court to vacate the summary judgment order, despite hiring another attorney.[78] Three aggravating factors, and no mitigations, were present, and the Colorado Supreme Court stressed that Honaker had very recently been disciplined for similar misconduct.[79]

The same sanction was also imposed in *People v. Barr*.[80] In addition to failing to pay child support in his own dissolution matter, Barr committed misconduct in two client representations.[81] In the first matter, he failed to file a lawsuit as he had promised his clients and then disregarded their request for a refund and an accounting.[82] In the second, Barr was out of state at the time of his client's trial, which went forward in Barr's absence, leading to entry of a $5,000.00 judgment against his client.[83] The Colorado Supreme Court considered eight aggravators and three mitigators as well as Barr's failure to respond to the disciplinary request for investigation.[84]

In *Fager*, *Honaker*, and *Barr*, the degree of neglect was somewhat more pronounced than in the instant case. On the other hand, the case before us involves more types of misconduct present than in the three decisions summarized above—Respondent's misconduct also encompasses failure to explain her fee in writing, misleading her client, and neglectful communication. We thus find that the sanction levied in *Fager*, *Honaker*, and *Barr* provides a relevant benchmark. But in light of the overwhelming number and weight of

[71] *Id*. at 281-82.
[72] *Id*. at 282.
[73] *Id*.
[74] *Id*.
[75] *Id*. at 283.
[76] 847 P.2d 640, 640 (Colo. 1993).
[77] *Id*. at 640-41.
[78] *Id*. at 641.
[79] *Id*. at 641-42.
[80] 818 P.2d 761, 761 (Colo. 1991).
[81] *Id*. at 761-62.
[82] *Id*. at 762.
[83] *Id*.
[84] *Id*. at 762-63.

aggravating factors here, we believe an upwards adjustment in the severity of the sanction is merited. Considering the presumptive sanction, the relevant case law, and the substantial aggravation—in particular, Respondent's use of fabricated documents during the disciplinary hearing—we suspend Respondent for twenty-four months. To be reinstated to the practice of law after her suspension, she will be required to prove by clear and convincing evidence that she has complied with all disciplinary orders and rules, has been rehabilitated, and is competent to fulfill her professional duties.

IV. CONCLUSION

Respondent ill-served her client in a case of significant emotional import. She then compounded those failures of representation by refusing to timely give her client an accounting or refund. The Hearing Board is dismayed by Respondent's resistance to recognizing her wrongdoing and by her dishonest attempt at the disciplinary hearing to pin blame on another lawyer. Respondent's rule violations will be answered by a suspension for twenty-four months.

V. ORDER

The Hearing Board therefore **ORDERS**:

1. **SYNTHIA KAYE MORRIS**, attorney registration number 18397, is **SUSPENDED FOR TWENTY-FOUR MONTHS**. The suspension will take effect upon issuance of an "Order and Notice of Suspension."[85]

2. Respondent **SHALL** promptly comply with C.R.C.P. 251.28(a)-(c), concerning winding up of affairs, notice to parties in pending matters, and notice to parties in litigation.

3. Within fourteen days of issuance of the "Order and Notice of Suspension," Respondent **SHALL** comply with C.R.C.P. 251.28(d), requiring an attorney to file an affidavit with the PDJ setting forth pending matters and attesting, *inter alia*, to notification of clients and other jurisdictions where the attorney is licensed.

4. If Respondent wishes to resume the practice of law after serving her suspension, she **MUST** file a petition for reinstatement under C.R.C.P. 251.29(c).

5. The parties **MUST** file any posthearing motion or application for stay pending appeal with the Hearing Board **on or before December 23, 2016, 2016**. Any response thereto **MUST** be filed within seven days.

[85] In general, an order and notice of sanction will issue thirty-five days after a decision is entered pursuant to C.R.C.P. 251.19(b) or (c). In some instances, the order and notice may issue later than thirty-five days by operation of C.R.C.P. 251.27(h), C.R.C.P. 59, or other applicable rules.

6. Respondent **SHALL** pay the costs of these proceedings. The People **SHALL** submit a statement of costs **on or before December 16, 2016**. Any response thereto **MUST** be filed within seven days.

DATED THIS 2nd DAY OF DECEMBER, 2016.

Original Signature on File
WILLIAM R. LUCERO
PRESIDING DISCIPLINARY JUDGE

Original Signature on File
STEVEN L. TERRY
HEARING BOARD MEMBER

Original Signature on File
JOHN E. HAYES
HEARING BOARD MEMBER

Copies to:

Katrin Miller Rothgery Office of Attorney Regulation Counsel	Via Email k.rothgery@csc.state.co.us
Synthia Kaye Morris Respondent	Via Email synthiamorrisatty@gmail.com
Steven L. Terry John E. Hayes Hearing Board Members	Via Email Via Email
Christopher T. Ryan Colorado Supreme Court	Via Hand Delivery