People v. Chuck Odifu Egbune. 22PDJ029. March 21, 2023.

A hearing board suspended Chuck Odifu Egbune (attorney registration number 26022) for three years, effective June 9, 2023. Before he petitions to reinstate his law license, if at all, Egbune must satisfy the judgment of attorney's fees and costs awarded against him in a civil case in which he engaged in misconduct resulting in his discipline in this proceeding.

Egbune launched a nine-year litigation odyssey to collect attorney's fees from a client. During the course of this campaign, Respondent filed duplicative claims in different counties, lodged vexatious and baseless claims, submitted motions that contained unsupported procedural assertions, neglected to respond to motions and communications, and failed to comply with a pretrial order. He also filed with a court an obviously faulty return of service to prove he had purportedly served a named defendant. Finally, Egbune failed to appear for trial, never having moved to continue the trial or alerted the court that he would not appear.

Through this conduct, Egbune violated Colo. RPC 3.4(c) (a lawyer must not knowingly disobey an obligation under the rules of a tribunal); Colo. RPC 8.4(c) (it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation); and Colo. RPC 8.4(d) (it is professional misconduct for a lawyer to engage in conduct that prejudices the administration of justice).

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

SUPREME COURT, STATE OF COLORADO ORIGINAL PROCEEDING IN DISCIPLINE BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE 1300 BROADWAY, SUITE 250 DENVER, CO 80203	
Complainant: THE PEOPLE OF THE STATE OF COLORADO **Respondent:** CHUCK ODIFU EGBUNE, #26022	Case Number: **22PDJ029**
OPINION IMPOSING SANCTIONS UNDER C.R.C.P. 242.31	

Chuck Odifu Egbune ("Respondent") launched a nine-year litigation odyssey to collect attorney's fees from a client. During the course of this campaign, Respondent filed duplicative claims in different counties, lodged vexatious and baseless claims, submitted motions that contained unsupported procedural assertions, neglected to respond to motions and communications, and failed to comply with a pretrial order. He also filed with a court an obviously faulty return of service to prove he had purportedly served a named defendant. Finally, Respondent failed to appear for trial, never having moved to continue the trial or alerted the court that he would not appear. Respondent's nine-year abuse of the judicial process warrants a three-year suspension, with the condition that he must satisfy the judgment of attorney's fees and costs awarded against him before he petitions for reinstatement of his law license.

I. PROCEDURAL HISTORY

On June 2, 2022, Erin R. Kristofco, Office of Attorney Regulation Counsel ("the People"), filed a complaint against Respondent with the Office of the Presiding Disciplinary Judge ("the Court"), alleging that Respondent violated six Rules of Professional Conduct: Colo. RPC 1.5(b), Colo. RPC 1.5(c), Colo. RPC 3.3(a)(3), Colo. RPC 3.4(c), Colo. RPC 8.4(c), and Colo. RPC 8.4(d). Respondent answered the complaint on June 28, 2022. The parties then scheduled a five-day hearing in this case for January 2023.[1] On January 3, 2023, Respondent requested to continue the hearing. The Court denied the motion, and Respondent moved to reconsider his request. The Court also denied that motion.

[1] During the scheduling conference on July 19, 2022, Respondent requested that the Court set the hearing in late January 2023, rather than sometime in 2022, because he planned to take a month-long religious holiday in December 2022. The Court accommodated that request.

The People withdrew their third claim—alleging a violation of Colo. RPC 3.3(a)(3)—in their hearing brief, which they filed on January 13, 2023. During the hearing on January 26, 2023, the People orally moved to dismiss their first and second claims—alleging, respectively, violations of Colo. RPC 1.5(b) and Colo. RPC 1.5(c)—citing the rule of limitations.[2] The Court granted the People's motion and dismissed those claims.

From January 23 to 26 2023, a Hearing Board comprising Presiding Disciplinary Judge Bryon M. Large ("the PDJ") and lawyers Diane Brown and Wadi Muhaisen held a disciplinary hearing under C.R.C.P. 242.30. Kristofco represented the People, and Respondent appeared pro se. The Hearing Board received testimony from Respondent, Monique Robinson-Hines,[3] Aaron Evans, June Baker Laird, Kari Jones, retired Judge Frederick Martinez,[4] Velma Gilbert, and Ecce Mendoza. The PDJ admitted the People's exhibits 2-24, 27, 33-34, 38, 42, 44-45, 47-48, 51, 57-58, 62, 64, 69-72, 77, 84-87, 91, 94, 98, 100, 104, 108-109, 111, 116, 120, 122-123, 126, 129, 132, 138, 141, 144-145, 164, 170, 174, 179-180, 185-187, 189, 193, 196-198, 201, 203, 206, 211-212, 214, and 215. The PDJ also admitted Respondent's exhibits D, K, and M.[5]

II. FINDINGS OF FACT[6]

Respondent was admitted to the practice of law in Colorado on October 23, 1995, under attorney registration number 26022.[7] He is thus subject to the jurisdiction of the Colorado Supreme Court and the Hearing Board in this disciplinary proceeding.[8]

Adams County Lawsuit

On October 23, 2010, Monique Robinson-Hines, her husband, and their three children, including her oldest child, Iyona Walton, were involved in a terrible car accident with another vehicle on the interstate. Robinson-Hines's husband, who was driving the family's car, perished in the accident. The other family members sustained injuries.

Robinson-Hines retained Respondent to bring a lawsuit in Adams County against the other driver, who was insured by Garrison Property and Casualty Insurance Company.[9]

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[2] *See* C.R.C.P. 242.12.

[3] On December 27, 2022, the People filed a designation of the preservation deposition of Robinson-Hines, who resides in Kansas. *See* Ex. 196 (transcript from Robinson-Hines's preservation deposition). Respondent did not object in writing to the People's designation but orally protested the deposition's introduction at the disciplinary hearing.

[4] Judge Martinez retired from the bench in December 2022.

[5] The Court **SUPPRESSES** exhibits 18-22, exhibit 214, and exhibit M.

[6] Factual findings are drawn from testimony offered at the hearing where not otherwise indicated.

[7] Compl. ¶ 1; Answer at 1.

[8] C.R.C.P. 242.1(a)(1).

Respondent and Robinson-Hines signed a contingency fee agreement in which she agreed to pay Respondent forty percent of the gross recovery of the settlement, along with eighteen-percent interest compounding monthly.[10] In April 2011, Respondent filed the complaint, which named Robinson-Hines as plaintiff on behalf of herself and her three children, including Walton.[11]

The representation was troubled. Robinson-Hines viewed Respondent as angry and prone to bullying, whereas Respondent complained that Robinson-Hines was uncooperative.[12] In May 2012, Judge Charles Crabtree of the Adams County District Court assessed sanctions against Robinson-Hines for failing to comply with discovery obligations. He struck Robinson-Hines's past and future wage loss and personal injury claims as well as Walton's personal injury claims. Judge Crabtree also prohibited Robinson-Hines from presenting any evidence at trial that had not been disclosed, including evidence of medical expenses, economic damages, property damages, and funeral expenses.[13] Notably, Judge Crabtree ordered Respondent to pay the opposing counsel's reasonable expenses and attorney's fees associated with litigating discovery issues and subpoenaing Robinson-Hines's records.[14]

In mid-June 2012, Respondent agreed to file a bankruptcy petition for Robinson-Hines, who was experiencing financial precarity at the time. The bankruptcy petition automatically stayed the Adams County case.[15] But the bankruptcy case was closed in February 2013, and opposing counsel moved to dismiss the Adams County case for failure to prosecute. Judge Crabtree ordered Respondent to respond on Robinson-Hines's behalf; because Respondent had not timely signed up to receive electronic notices on the Colorado courts e-filing system, however, he did not receive the order.[16] The case was thus dismissed without prejudice.[17]

Soon thereafter, Respondent and Robinson-Hines signed a separate fee agreement in which Respondent agreed to move for reconsideration of the dismissal order in exchange for $450.00 per hour, capped at thirty hours.[18] Ultimately, in May 2013, Judge Crabtree granted the

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[9] *See* Ex. K.

[10] Ex. 2.

[11] Ex. 3. Respondent returned repeatedly in his testimony to his willingness to accept the case when no other lawyer would take it. He recalled that several lawyers told him the case was worthless, which he initially believed; only with his efforts, he said, was he able to uncover crucial information that transformed the case into a matter potentially worth millions.

[12] At the disciplinary hearing, Velma Gilbert, who has family connections with Robinson-Hines, corroborated Respondent's account that Robinson-Hines was difficult to contact and reluctant to go to trial.

[13] Ex. 9.

[14] Ex. 9.

[15] Ex. 11.

[16] *See* Ex. 17 at 1632.

[17] Ex. 14.

[18] Ex. 16.

motion to reconsider and reinstated the case, cautioning that he would not condone further delays.[19] The parties litigated the case throughout summer and autumn 2013.[20]

On October 28, 2013, the parties participated in mediation. They settled the case for $300,000.00, to be distributed between Robinson-Hines, Walton, and Robinson-Hines's two minor children, "contingent upon approval by the probate court or appropriate court of the settlement with respect to the minor children."[21] Rand's counsel contacted Respondent in November and December 2013 with draft petitions for approval of the settlement and a stipulation to dismiss the Adams County case with prejudice.[22] Respondent did not answer. Nor did he respond to three other efforts to communicate, having left the country on a month-long religious sojourn.[23] Only on January 21, 2014, did Respondent finally reply, "I just came back from vacation and saw several of your emails."[24] Once the parties signed the stipulation to dismiss, Judge Crabtree dismissed the Adams County case with prejudice on January 29, 2014.[25]

Probate Approval

Meanwhile, Robinson-Hines grew concerned about obtaining probate approval of the settlement, worrying that if she did not she could "lose everything."[26] According to Robinson-Hines, Respondent had "disappeared" without telling her he planned to take a month-long international vacation; because his voicemail box was full, she could not leave him a message or otherwise contact him.[27] As a result, she asked a family member in the legal field to recommend a lawyer who could assist her in probate. She was directed to Aaron Evans, a lawyer at the law firm Evans Case, LLP (at the time it was called Benson & Case, LLP). Robinson-Hines signed a fee agreement with Evans on January 29, 2014, effectively terminating Respondent.[28]

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[19] Ex. 17 at 1633. Judge Crabtree began his order by remarking that even at that point, the case had "a lengthy and tortuous history," and he admonished Respondent for the "personal attacks" and "pejorative remarks" contained in Respondent's filings. Ex. 17 at 1628.

[20] During that time, Respondent filed at least four motions that Judge Crabtree deemed "scandalous, impertinent, defamatory and unprofessional." Ex. 23. Judge Crabtree struck and sealed those motions (*see* Exs. 18-22 (suppressed)). The day thereafter, Respondent moved to recuse Judge Crabtree for bias, accusing the judge of attempting to "muzzle" his rights to "express and expose the sham going on in the courtroom." Ex. 24 at 3.

[21] Ex. 27. Walton reached the age of majority in 2012. *See* Ex. 120 at 70:2-25.

[22] Exs. 33-34.

[23] Ex. 38.

[24] Ex. 42. *See also* Ex. 48.

[25] *See* Ex. 48.

[26] Ex. 196 at 29:2-16, 34:4-10.

[27] Ex. 196 at 26:14-15, 28:14-29:1.

[28] Ex. 44. Because Walton turned eighteen in March 2012, *see* Ex. 120 at 70:2-25, Evans asked Walton to sign a separate fee agreement with him. *See* Ex. 69.

Respondent felt disrespected and could not "fathom why [Robinson-Hines made] this request for [a] change of attorney after the fact."[29] He declined to provide Evans a copy of the case file until his fees and costs were "paid up."[30] Respondent also cautioned Evans "not to interfere" with the contract he had with Robinson-Hines.[31] When Respondent later refused to cooperate in providing Evans a copy of Robinson-Hines's file, Evans Case had to enlist the assistance of disciplinary authorities to obtain her file.[32] In April 2014, Respondent asserted an attorney's lien in the Adams County case against the settlement proceeds for $175,715.66, which included costs of $42,215.66.[33] He also calculated interest of eighteen-percent monthly, accruing from the date he filed the lien.[34]

More than two weeks before the probate hearing to approve the settlement and to appoint a conservator for the minor children, Evans's associate Kari Jones sent Respondent a cover letter via hand delivery and certified mail, notifying Respondent of the upcoming hearing in Arapahoe County. Jones's cover letter erroneously stated that the hearing would take place at the Adams County District Court; the letter attached two notices of hearing, however, that correctly listed Arapahoe County District Court as the hearing's location.[35] On July 23, 2014, the Arapahoe County probate court held the hearing, approved the minors' settlements, and authorized several disbursements.[36] According to Respondent, he missed the probate hearing because Jones had misdirected him to Adams County. As a result, the probate court did not account for Respondent's attorney's lien in approving the minors' settlement awards.[37]

Arapahoe County Interpleader Action

After the probate court approved the minors' settlement awards, Respondent threatened to hold Garrison Property and its insured personally liable for any deficiencies in the satisfaction of his lien. Concerned, Garrison Property filed an interpleader action in Arapahoe County District Court, noting that it was "in doubt as to and cannot safely determine the proper disbursement of the funds . . . without risk that it or its insured may be exposed to multiple or additional liability."[38] Garrison Property requested permission to deposit the settlement funds in the court's registry and asked the court to discharge it from any other liability, essentially seeking to wash its hands of the matter. The Arapahoe County District Court eventually accepted the interpleaded

[29] Ex. 47 at 2; *see also* Ex. 45. At the disciplinary hearing, Respondent complained that Evans told Robinson-Hines that Respondent was a bad lawyer, that he should have obtained millions for her, and that he should be disbarred. Evans generally denied Respondent's assertions.
[30] Ex. 47 at 1.
[31] Ex. 47 at 2.
[32] *See* Ex. 51.
[33] Ex. 58. Respondent later waived $13,500.00 of that figure. Ex. 72 at 1708 n.1.
[34] Ex. 72 at 1708.
[35] Ex. 62.
[36] *See* Ex. 64 at 3.
[37] *See* Ex. 100 at 2.
[38] Ex. 64 at 4 ¶ 25.

funds into its registry.[39] According to Evans, this began a period of "endless litigation" that "moved incredibly slowly and was cumbersome for no reason."

On behalf of Robinson-Hines and her family, Evans Case entered an appearance in the Arapahoe County interpleader action and filed a crossclaim against Respondent for declaratory judgment.[40] The declaratory judgment claim was designed to secure a judicial determination about how much of the settlement Respondent was entitled to, paving the way for the family to get the remaining funds. During summer 2015, Respondent responded by lodging crossclaims in the same case against Robinson-Hines and her family as well as against Evans Case and Evans personally.[41] Evans and Evans Case later hired lawyer June Baker Laird to defend against Respondent's claims.[42]

Also during summer 2015, Respondent sent Evans a letter cautioning that interest was accruing on his fees. Attached to the letter was a 48-month schedule of interest, which showed that one year after the lien's filing, Robinson-Hines owed $193,947.99; two years after the lien's filing, she would owe $231,887.74; three years thereafter she would owe $277,249.20; and four years thereafter she would owe $331,484.18—more than the full settlement amount.[43]

Respondent filed a second amended answer on December 10, 2015.[44] In that pleading, he again brought six crossclaims against Robinson-Hines and her family and Evans Case, and he filed third-party claims against Evans.[45] Of note, he also filed claims against Jones. At the

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[39] Ex. 71. During that time, Respondent moved to vacate the probate court's order, arguing that the matter was subject to arbitration. Ex. 70. He told Arapahoe County Judge Elizabeth Weishaupl that the Adams County court had ordered the parties to arbitrate the matter of his fees. Judge Weishaupl found this was not so, declined to stay the Arapahoe County interpleader case, and refused to vacate the probate court's order. *See* Ex. 71; *see also* Ex. 87 at 2.

[40] *See* Ex. 77. Jones left Evans Case in May 2015. On July 10, 2015, she filed, via the Colorado courts e-filing system, a notice of withdrawal in the case, which was served on Respondent. *See* Ex. 180 at 9.

[41] Ex. 77. Respondent did not state a claim against or name Jones.

[42] Ex. 86 (entry of appearance filed in March 2016).

[43] Ex. 72. Later, Respondent asked the Arapahoe County court to award him $481,839.49 based on quantum merit. *See* Ex. 122 at 4.

[44] Ex. 214.

[45] Before Respondent filed his second amended answer, he submitted a filing opposing Robinson-Hines's motion for a status conference. Respondent's filing evinced a striking level of vitriol toward Evans. Respondent complained that Evans and his firm "swooped in as scavengers" to take over the case once he settled it for six figures, that Evans made "despicable" misstatements, that Evans "patronize[d]" him and treated him "condescendingly," and that he talked to him "disparagingly," insulted him, and called him names. Ex. 84 at 2-3. Later, he accused Evans of filing "another insipid motion" for a "judicially sanctioned heist of his attorney fees," alleging that Evans had put forth "garbage postulations" in service of his "invidious schemes." Ex. 85 at 1-2. This motif was also prominent in Respondent's testimony about Evans at

disciplinary hearing, Jones speculated that Respondent named her in the suit because he believed she tried to trick him when, in July 2014, she misidentified the location of the probate hearing regarding the minors' settlement.

On April 26, 2016, Judge Weishaupl dismissed the interpleader case for lack of jurisdiction. She reasoned that the probate court had already ruled on the distribution of funds in the case and that she lacked jurisdiction to review or modify the probate court's distribution of the settlement funds.[46] Respondent appealed.[47] He also unsuccessfully moved to prevent the Arapahoe County District Court from disbursing the funds in its registry.[48] Judge Weishaupl ordered the release of the settlement funds to the two minors around September 2016.[49]

Denver District Court Case

Respondent testified that because the Arapahoe County interpleader case was dismissed for lack of jurisdiction, he filed in Denver District Court a nearly identical action alleging six claims and naming Evans Case, Evans, and Jones as defendants. As grounds, he contended that Robinson-Hines and her family had agreed he was entitled to his fees and that Evans and his firm made it difficult to enforce his agreement with Robinson-Hines. Evans and Evans Case moved to dismiss the case based on statute of limitations arguments; the Denver court granted the motion on four claims but denied the motion as to the other two.[50] Soon thereafter, Evans and Evans Case supplemented their motion to dismiss the remaining claims. The Denver court granted that motion in July 2017.[51] Respondent appealed.[52]

Even though the matter was on appeal, Respondent filed an amended complaint against Evans Case, Evans, Jones, and Garrison Property.[53] In the amended complaint—on which the Denver District Court took no action at that time—he alleged nineteen claims, including the same six claims that had already been dismissed, along with new claims premised on the federal Racketeer Influenced and Corrupt Organizations Act ("RICO"), the Colorado Organized Crime Control Act ("COCCA"), the Colorado Consumer Protection Act, and deceptive business practices.

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the disciplinary hearing; Respondent attacked Evans for being a "brute[]", using "vile language[]," acting like "God's gift to the legal profession," and failing to respect him professionally.

[46] Ex. 87.

[47] Respondent did not appeal the dismissal of his claims against Jones. *See* Ex. 180 at 8.

[48] Ex. 91 at 2.

[49] *See* Ex. 100 at 4. Though Robinson-Hines and Evans testified that the minors received their settlement distributions around April 2016, the record suggests the funds were not released until at least late September 2016. *See* Ex. 91 at 4. The funds relating to Robinson-Hines's and Walton's claims remained in the court's registry.

[50] Ex. 94.

[51] Ex. 98.

[52] *See* Ex. 104.

[53] Ex. 111.

At the disciplinary hearing, Respondent either declined to or could not explain the factual bases for most of these claims.

Hearing on the Fee Agreement and Case Consolidation

Meanwhile, in August 2017, the Colorado Court of Appeals issued an opinion in the Arapahoe County interpleader action.[54] The appeals court affirmed in part and reversed in part Judge Weishaupl's order dismissing the action. It affirmed inasmuch as it agreed that the interpleader court did not have authority to redistribute the minors' funds, because to do so would constitute an impermissible collateral attack on the probate court's judgment. As as to Robinson-Hines's and Walton's funds, however, the appeals court reversed, ruling that the interpleader court had jurisdiction to determine the validity of Respondent's attorney's lien. It remanded the case so the Arapahoe County District Court could do so.

On remand in the interpleader action, Respondent moved to recuse Judge Weishaupl, arguing that throughout the litigation she used a hostile and demeaning tone toward him that evinced a bent of mind against him. Though Judge Weishaupl disagreed with Respondent's characterizations of animus, she nevertheless recused herself.[55] The case was then assigned to Judge Frederick Martinez. When Judge Martinez received the case, he recalled, "my eyes opened very wide." In particular, he noted that the case, which was very old, had a "tortured procedural history" with several interrelated, unresolved issues.

Judge Martinez set a hearing for February 6, 2019, to decide whether Respondent's retainer agreement with Robinson-Hines was valid and, if so, to determine the appropriate fees and costs award.[56] Though Respondent moved to continue the hearing—arguing that not only was he sick but also that Judge Weishaupl had already found he was entitled to fees[57]—Judge Martinez nonetheless held the evidentiary hearing on February 6.[58] Six days later, Judge Martinez issued an order finding that Robinson-Hines did not enter into the contingency fee agreement with Respondent knowingly, freely, and voluntarily; that the fee agreement was unconscionable,

[54] Ex. 100.

[55] Respondent soon moved to disqualify Evans and Evans Case as lawyers for Robinson-Hines and Walton. He argued that it was "bizarre" that Evans, who himself was a party to the interpleader action, should continue to represent Robinson-Hines and Walton. Ex. 109 at 11. The filing, which was punctuated with ad hominem attacks on Evans, accused Evans of using "talismanic language to stoke the prejudices of some judges and magistrates against [Respondent] because of his race." Ex. 109 at 6. Respondent also remarked that "Evans has been handsomely rewarded for chicanery because he is facing an attorney whom some of the judges in Arapahoe County despised as an African-American." Ex. 109 at 7. Respondent's motion to disqualify Evans was denied.

[56] *See* Exs. 116 and 120.

[57] Ex. 116. In that same motion, Respondent announced that until about January 18, 2019, he had not opened any of the filings or orders entered in December 2018.

[58] *See* Ex. 120.

unreasonable, and unfair; that Respondent failed to complete the terms of the fee agreement; that Respondent never entered into a fee agreement with Walton; and that Respondent failed to prove any damages associated with his claim for fees under the theory of quantum meruit.[59] Of note, Judge Martinez concluded he could not award any recovery in quantum meruit, as Respondent focused in the hearing on "collateral issues surrounding the beginning stages of the attorney client relationship" and thus "failed to present any evidence regarding the value of his work, the services he performed, any exhibits associated with his 'reconstructed' time records, any pleadings file[d] on his client's behalf, billing records, calendars, summaries or estimations," even though the court implored him to address the issues teed up for decision on remand.[60]

Respondent launched a multi-front attack on Judge Martinez's ruling. First, he immediately filed a notice of appeal.[61] Second, he filed a motion exhorting the court to apply the "law of the case," asserting that Judge Weishaupl had already ruled on the conscionability of his contingency fee agreement.[62] Judge Martinez unequivocally denied that motion, noting that Judge Weishaupl had made no such ruling.[63] Third, Respondent moved the appeals court to remand the matter for further review under C.R.C.P. 60(b).[64] Fourth, he moved to stay Judge Martinez's order disbursing the settlement funds.[65] Finally, Respondent argued for Judge Martinez's disqualification, arguing that an appearance of impropriety would arise if the judge were to continue to serve on the case, as he and Laird's co-counsel once worked at the same law firm.[66] None of these gambits was successful, and in April 2019, the court finally ordered the distribution of Robinson-Hines's and Walton's settlement funds.[67]

In the wake of Judge Martinez's ruling, some of Respondent's crossclaims and third-party claims in the Arapahoe County interpleader action remained unresolved. In October 2019, Robinson-Hines and Walton moved for summary judgment on Respondent's three crossclaims against them. Respondent initially did not respond, and the court granted the motion. But when Respondent quickly moved for reconsideration and additional time to respond, the court allowed

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[59] Ex. 122.

[60] Ex. 122 at 2, 7. At the disciplinary hearing, Respondent introduced a "Notice of Attorney Costs" that he filed in April 2016, documenting various costs that he had assumed while representing Robinson-Hines. *See* Ex. M. Given Judge Martinez's findings, the Hearing Board assumes that Respondent did not present this notice at the hearing on February 6, 2019, even though Judge Martinez instructed Respondent that the court had no other evidence before it, that it was a "blank slate," and that it was taking evidence for the first time. *See* Ex. 120 at 8:10-12, 15:16-25.

[61] *See* Ex. 123.

[62] *See* Ex. 126.

[63] Ex. 126.

[64] Ex. 129.

[65] Ex. 132.

[66] *See* Ex. 141. This was not the last time Respondent complained about Judge Martinez. *See, e.g.,* Ex. 174 at 2 (in a May 2020 filing, Respondent remarked that he felt as if he were "facing a judicial lynch mob").

[67] Ex. 138.

him another full week to submit a response. Respondent again failed to respond, however, and the court again entered summary judgment in Robinson-Hines's and Walton's favor.[68]

Around the same time, the court of appeals remanded the Denver District Court case. Just one of Respondent's claims against Evans and Evans Case survived, alleging tortious interference with a business relationship.[69] On remand, the Denver District Court allowed Respondent to reinstate his amended complaint on that sole claim.[70] Respondent then filed a second amended complaint against Evans Case, Evans, Jones, and Garrison Property.[71] He brought fourteen claims: the one surviving claim alleging tortious interference, along with a host of new claims premised on, among other things, RICO, COCCA, Colorado's Consumer Protection Act, and deceptive business practices. He served the named defendants. Jones promptly moved to dismiss the claims against her.[72]

Frustrated by the inefficiencies inherent in defending against two nearly identical suits in two separate judicial districts, Laird secured the Multi-District Litigation Panel's recommendation to consolidate the Denver District Court case with the Arapahoe County case. The Colorado Supreme Court accepted the recommendation and consolidated the cases under Judge Martinez in January 2020. By the end of March 2020, Judge Martinez had dismissed all of Respondent's claims against Jones in the Denver District Court case and found that Jones was entitled to an award of reasonable attorney's fees.[73] Soon thereafter, Respondent urged the court to continue the upcoming trial, which was slated to begin in June 2020. The court agreed and reset the trial for ten days in April 2021.

Returns of Service

In January 2021, Judge Martinez convened a hearing on Jones's motion for attorney's fees after Respondent's Denver District Court case claims against her were dismissed. Respondent argued that he owed no fees because his claims against Jones were still pending in the Arapahoe County interpleader action. Then he moved for default on those claims, as Jones had not answered them. Jones insisted that she had not been served; Respondent represented that he "recalled that he did have the Amended Answer and crossclaims served on the parties after searching his records."[74] Ultimately, Respondent argued that he served Jones through the e-filing

[68] Ex. 164.
[69] *See* Ex. 180 at 8-9; *see also* Ex. 211 at 16-17 (noting that the court of appeals both affirmed the dismissal on all claims except tortious interference with a business relationship and observed that Jones was not a part of the appeal because she had not been properly served).
[70] Ex. 144 (stating that Respondent could not reassert the five claims that had been dismissed).
[71] Ex. 145.
[72] *See* Ex. 180 at 9.
[73] Ex. 170.
[74] Ex. 179 at 3.

system in December 2015 and that he then served Jones by personally serving Evans—at Jones's former law firm—in March 2016.[75]

In support, on February 20, 2021, Respondent submitted as an attachment to his motion for default a previously unfiled return of service dated March 7, 2016.[76] Jones decried this return as "fraudulent on its face" because it had not been filed in the five years prior, and because it was unsigned yet notarized.[77] Respondent soon produced another return of service, explaining that he discovered the returns in separate boxes stored in his garage. The second return shows a signature line and a signature inserted into the middle of what appears to be the earlier document. The signature line lists "Pedro Rodriguez" as the signatory; the prefatory paragraph, however, attests that the affiant is "Prodro Rodriguez," while the signature itself seems to read "Pedroguez."[78] The margins of the second return look askance, and neither document bears a fax heading or time stamp.

As Respondent testified both at the disciplinary hearing and at a hearing before Judge Martinez on February 26, 2021, Respondent met Pedro Rodriguez in March 2016, when Rodriguez introduced himself as a process server who used technology, particularly video streaming, to effectuate and memorialize service. Respondent decided to investigate how Rodriguez's technology worked by re-serving Evans with the second amended complaint in the Arapahoe County case.[79] Respondent instructed Rodriguez to serve the complaint and then notarize the return with Ecce Mendoza, a notary public.[80] Respondent testified that as soon as Rodriguez faxed the return to him, he saw that the notarized affidavit was unsigned; he instructed Rodriguez to go back to Mendoza and sign the document in Mendoza's presence.[81] According to Respondent, Rodriguez then returned to Mendoza, signed the document in Mendoza's presence, and faxed the second return to Respondent.[82] Respondent disclaimed

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[75] *See* Ex. 180 at 2. Jones left Evans Case's employ in May 2015.

[76] Ex. 185; see also Ex. 186 at 87:17-21 (When asked, "You represented the veracity [of the first return] to the [c]ourt when you attached it to your motion for Clerk's default, correct?", Respondent answered, "Yes. Because I – you know, that's – that's the only document I had at that time.").

[77] Ex. 180 at 3. Jones contended that, having lost the claims against her in the Denver District Court case, Respondent raised the same claims in the Arapahoe County interpleader action to delay or defeat the imposition of attorney's fees and costs ordered against him.

[78] Ex. 186.

[79] At the hearing before Judge Martinez, Respondent averred that he decided to serve Evans again in March 2016, even though he had already served Evans via sheriff in January 2016. *See* Ex. 187 at 66:24-69:22, 75:12-14.

[80] Ex. 187 at 77:1-5.

[81] Ex. 187 at 77:19-78:2.

[82] Mendoza appeared at a Webex hearing on February 23, 2021. But, as Laird explained, the two versions of the return of service complicated the remote hearing, and Judge Martinez ordered the parties to attend an in-court hearing on February 26, 2021. Mendoza did not appear on February 26, 2021, and thus did not testify before Judge Martinez. Mendoza did, however, testify

forging or altering either of the documents or intentionally or knowingly submitting a false document.

Judge Martinez issued a written ruling on Respondent's request to enter default against Jones on March 1, 2021.[83] In that order, Judge Martinez found that Respondent's returns of service were "fraudulent assertions of proper service of process," premising that finding on several facts: none of the signatories testified in court; the margins of the two documents were misaligned, suggesting that the second document was cut and pasted together; Respondent failed to produce the original documents, and the documents he did file bore no fax headings or time stamps; and the documents were produced and filed years after they purportedly were created.[84] Judge Martinez concluded that the second return was manipulated to add the process server's signature, found that Respondent presented false and misleading evidence in support of his claim that Jones was properly served, denied Respondent's motion for default, and granted Jones's motion to dismiss.

Trial in the Consolidated Cases

The parties attended a pretrial conference on March 29, 2021, during which the court gave the parties four days to confer and file stipulated and nonstipulated jury instructions, stipulated exhibits, and orders of proof. Laird, representing Evans, complied with the order; Respondent filed nothing. Instead, in an April 2 email, he notified Laird that his daughter had contracted COVID-19 and that a witness whom he had just met encountered someone who also tested positive. Laird immediately moved for a hearing, expressing concern that Respondent might move to continue the trial.[85] She wrote, "[t]he case has been pending since 2014, [defendants] have spent significant amounts of time and money preparing for trial and doing [Respondent's] job for him, and [defendants] are ready to proceed to trial . . . ."[86]

In a telephonic hearing with the court on April 6, 2021, Respondent represented that he had been exposed to COVID-19 and was being tested the next day. Respondent promised to promptly file the results under seal, and Judge Martinez set a follow-up hearing for April 8. Respondent did not file his test results. Instead, he filed a medical practitioner's note with the court and sent Laird an email on April 7, 2021, writing, "I developed symptoms of COVID-19. I will

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at the disciplinary hearing, during which he verified that his signature appears on both returns, as do his notary block and stamp. But he did not remember the transaction, and he could not explain why he notarized the first return without witnessing Rodriguez affix his signature to the document.

[83] Ex. 215.

[84] Ex. 215 at 1-2.

[85] Ex. 189. Laird had earlier raised concerns about this possibility during the hearing on February 26, 2021. At that hearing, Respondent declined to stake out a firm position on the matter, stating only that he had no plans that day to seek a continuance due to fear of COVID-19 exposure. *See* Ex. 187 at 116:10-118:4.

[86] Ex. 189 at 2-3.

file the doctors[’] report under seal today. I am sick. I have difficulty breathing and I have dry cough and chills since yesterday evening.”[87] When Respondent failed to appear for the telephonic hearing on April 8, Judge Martinez continued the trial until May 17, 2021, mindful that another courtroom needed the juror pool.[88] The judge also entered an order directing Respondent to show cause why the case should not be dismissed.

Laird moved forward, securing the court’s permission to take witness preservation depositions for trial. She served notice of a video-recorded trial deposition of Robinson-Hines on May 3, 2021, inviting Respondent to attend by telephone or by video. Respondent did not respond. Laird called Respondent’s office and cell phone. Both voicemail boxes were full, however, and Laird could not leave messages. So, she sent three email messages requesting that Respondent confer about trial management issues. She also filed a motion seeking another telephonic court conference to discuss the deposition and other pretrial matters.[89] In that motion, Laird noted that although Respondent refused to communicate with her, he had been practicing law in other cases in the week prior, including opening filings served on him in the e-filing system, advancing his positions in at least one other case, and sending at least two emails in two separate cases.[90]

Robinson-Hines’s trial preservation deposition took place on May 3, 2021. Respondent did not appear in person or by telephone or video. The same day, however, he submitted a notice of sickness, attaching a medical practitioner’s note stating that he could not return to work until May 10, 2021, due to “severe dizziness.”[91] Again on May 10, 2021, Respondent submitted a notice of sickness, noting that he had been ill for quite some time and had been unable to do much work.[92] Attached to the notice was a medical provider’s note, requesting that Respondent be excused from work until May 17, 2021.[93] But Respondent never moved to continue the jury trial that was set to begin on May 17, 2021.

On the morning of May 17, 2021, Laird appeared in court. She had had no choice but to fully prepare for trial; she subpoenaed witnesses, hired a court reporter, retained an electronic evidence presentation company, and toted to the courtroom eleven sets of exhibits arranged in

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[87] *See* Ex. 193 at 2; Ex. 203 at 4.

[88] *See* Ex. 203 at 5.

[89] Ex. 193.

[90] Ex.193 at 2; *see also* Ex. 203 at 5-6 (“The evidence shows that between April 20 and May 17, 2021 [Respondent] was actively practicing law in other matters. He opened filings in this case as of April 20, 2021. He was in his office on April 29, 2021 at 2:30 p.m. when he answered the office door and accepted delivery of Evans trial exhibit notebook from a courier and the [c]ourt notes the filed Return confirming this personal delivery. On April 26, 2021 Respondent participated in a remote ADR conference with retired Judge Pratt at the Judicial Arbiter Group and settled the case, which coincidentally was also pending in this Division.”).

[91] Ex. D at 1; *see also* Ex. 203 at 5.

[92] Ex. 197.

[93] Ex. 197; *see also* Ex. D at 2.

four bankers' boxes. Meanwhile, Judge Martinez reserved jurors, removing them from the limited jury pool available for both criminal and civil cases.[94] And judicial staff prepared the courtroom in compliance with stringent COVID-19 protocols, a process that took three days, according to Judge Martinez. At 8:30 a.m. on the day of the trial, Judge Martinez called the case, but Respondent was absent. Judge Martinez asked Laird about her contact with Respondent, but she had no information to offer. Ultimately, Laird moved for a directed verdict, which Judge Martinez granted.[95] He entered judgment in favor of Evans and Evans Case,[96] inviting briefing on whether to assess Laird's attorney's fees and costs against Respondent.

Respondent did not review the entry of judgment in the e-filing system until May 24, 2021.[97] He appealed the judgment on June 14, 2021.[98]

At the disciplinary hearing, Respondent maintained that he had been physically unable to attend the trial or to alert the court that he could not appear. He explained he was battling long-COVID symptoms, particularly vertigo and tinnitus. On the day of the trial, he said, he "wasn't thinking clearly because his "world was spinning upside down." Velma Gilbert, who shares two children with Respondent, confirmed that Respondent contracted COVID-19 and suffers from "long-haulers'" after-effects.

After briefing, Judge Martinez entered an order on July 12, 2021, awarding to Evans and Evans Case the attorney's fees and costs they incurred in their defense from 2019 through May 2021. Judge Martinez granted costs under C.R.S. § 13-16-105, as Evans was the prevailing party, and attorney's fees under C.R.S. § 13-17-102(4) as a sanction for Respondent's vexatious conduct. In support of the latter finding, Judge Martinez held:

> For the last six years [Respondent] intentionally filed duplicative claims in multiple venues and levied factual allegations against Evans he did not prove. He used arbitrary and abusive litigation tactics and opportunities for delay to his advantage. He failed to adhere to the Colorado Rules of Civil Procedure leaving opposing counsel and this [c]ourt with an unnecessarily complicated record of filings. He consistently conducted himself as though the rules and the law that

[94] Judge Martinez explained that due to the courthouse's COVID-19 social distancing restrictions, limited juries were available and were primarily used for criminal matters. Judge Martinez also testified that because this case was so old, he lobbied to secure a civil jury to finally bring it to a conclusion.

[95] *See also* Ex. 211 at 23 ("The court made a record of the procedural history of the case, and then noted that, if [Respondent] had substantiated his claims of a COVID-19 infection, it would have accommodated him. The court also noted that [Respondent] had reached a settlement in an unrelated case and had filed that settlement with the court on May 11, 2021, despite his earlier representation that he could not work until May 17.").

[96] Ex. 198.

[97] *See* Ex. 203 at 6.

[98] Ex. 201.

> apply to lawyers, and lawyers representing themselves, did not apply to him. He filed baseless papers and motions, and as cited above left evidence of his overreaching and dishonesty.
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> . . .
>
> When Respondent did not get his way or he was ruled against, at times he recklessly accused judiciary in this District of being racist, and of victimizing him because of his race without substantive grounds to make those incendiary accusations.[99]

Concluding that "[t]he extent of the fees and costs claimed were incurred primarily as a result of [Respondent's] arbitrary, abusive, stubbornly litigious, disrespectful and dishonest conduct in the case, which is the definition of vexatious litigation conduct," Judge Martinez ruled that Respondent's conduct rose to "the level of willful and malicious injury inflicted on Evans."[100] The judge granted Evans and Evans Case a full award of $221,927.48 in fees and costs.

A few days later, on July 16, 2021, Judge Martinez issued an amended judgment in the consolidated cases, entering against Respondent a final total judgment of $330,551.75, apportioning $222,124.98 to Evans and Evans Case, $56,576.77 to Jones, and $51,850.00 to Robinson-Hines and Walton.[101]

At the disciplinary hearing, Judge Martinez expounded on his reasons for concluding that Respondent had inflicted on Evans willful and malicious injury. The judge mused that even though the case was old, an "underlying theme" in Respondent's litigation approach was "delay for delay's sake," as if "delay was almost an affirmative defense." According to the judge, Respondent seemed to take the position that the "longer [the case] could be drug out the better" which Judge Martinez found "perplexing." The judge noted that Respondent fought over non-issues, "spinning his wheels" on ancillary matters rather than getting to the "heart of the case." Reflecting on Respondent's pattern of conduct, Judge Martinez observed that Respondent's efforts appeared aimed at thwarting or avoiding proceedings designed to present evidence, instead filing before-the-fact motions to block merits determinations or after-the-fact motions effectively seeking reconsideration on procedural grounds. Moreover, the judge faulted Respondent for including in his motions unsupported assertions about procedural history, forcing opposing counsel to rebut his claims and sending the judge down a research trail, combing through volumes of records to confirm or disprove his contentions.

On appeal, Respondent argued that the Arapahoe County District Court had erred by, among other things, providing him inadequate time to prepare and present evidence showing the validity of his lien; denying his motion to enforce his charging lien; entering summary

[99] Ex. 203 at 6-7.
[100] Ex. 203 at 7.
[101] Ex. 206 at 3.

judgment for Robinson-Hines and Walton; denying his motion for default against Jones and dismissing his claims against her; awarding Jones attorney's fees; granting a directed verdict against him in favor of Evans and his firm;[102] and awarding fees to Evans, Evans Case, Robinson-Hines, and Walton.[103] The court of appeals dismantled each of Respondent's arguments and affirmed in total. It also concluded that Respondent's appeal was frivolous, found that Robinson-Hines, Walton, Jones, Evans, and Evans Case were entitled to an award of their reasonable appellate attorney's fees, and remanded to the Arapahoe County District Court to determine that award.

On January 4, 2023, Respondent requested that the court of appeals grant him an extension to file a petition for rehearing.[104] The Hearing Board takes judicial notice that the court of appeals denied his petition for rehearing and that the Colorado Supreme Court rejected his petition for certiorari in the same case.[105]

III. ANALYSIS OF CLAIMS

Claim IV (Colo. RPC 3.4(c))

Claim IV of the People's complaint alleges that Respondent violated Colo. RPC 3.4(c), proscribing knowing disobedience of an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists. The People contend that Respondent violated this rule because he disobeyed Judge Martinez's orders to appear for a telephone status conference and to file trial exhibits, stipulations, an order of proof, objections to Evans's jury instructions, and proposed jury instructions. In defense, Respondent simply asserts that he was sick, that he notified the court he was sick, and that he had never missed a hearing until he contracted COVID-19.

Respondent attended a pretrial conference on March 29, 2021, during which Judge Martinez directed the parties to confer and file by April 2, 2021, their trial exhibits, stipulations, orders of proof, proposed jury instructions, and objections to the opposing parties' proposed instructions.[106] Respondent therefore knew of his obligations under the court's order. The

[102] Notably, the court of appeals held that Respondent "delayed the trial for purported medical reasons, worked on other cases despite his alleged illness, and then failed to appeal for trial without providing any notice of explanation to the court." Ex. 211 at 23. The appeals court also stated that the record supported Judge Martinez's finding that the returns of service represented an attempted fraud perpetrated in open court. Ex. 211 at 21.

[103] Ex. 211 at 1.

[104] Ex. 212.

[105] To date, Respondent has filed seven appeals stemming from the underlying October 2010 accident: three in the Arapahoe County interpleader action (16CA720, 19CA279, 21CA873), two in the Denver District Court case (15CA1808 and 17CA1541), and two in the probate case (20CA2157 and 20CA1258).

[106] *See* Ex. 189.

evidence is clear that in the lead-up to trial, Respondent never—not by the deadline of April 2, 2021, or anytime thereafter—filed the required materials. Likewise, uncontroverted evidence shows that Respondent failed to file his COVID-19 test results as he promised he would and, more importantly, as he was ordered to do. Finally, it is undisputed that Respondent did not appear for a telephonic hearing on April 8, 2021, even though he knew Judge Martinez had set the hearing and expected him to attend.

Respondent argues that he could not comply with the court's directives because he was physically unable to do so. Some evidence does suggest that Respondent may have fallen ill around April 6, 2021: Laird reported that he sent her an email on April 7, detailing his symptoms, and Judge Martinez noted in a later order that Respondent filed a medical provider's note around the same early-April 2021 time period.[107] Thus, although we are skeptical that Respondent's described symptoms actually prevented him from filing his test results or from briefly calling in to attend a telephonic conference—after all, he was able to send the email and file the provider's note—we reluctantly grant him some latitude for lapses occurring in the week or two after April 6, 2021.

The same cannot be said for Respondent's failure to comply with the court's order to submit pretrial materials in the days before April 6, 2021. Respondent adduced absolutely no evidence and introduced no testimony that suggested he was ill before that date.[108] In fact, he offered no real explanation for failing to confer with Laird or to file the required materials between March 29 and April 2, 2021.[109] As such, we have no trouble finding that Respondent violated Colo. RPC 3.4(c) by knowingly disobeying Judge Martinez's order to timely file those materials.

Claim V (Colo. RPC 8.4(c))

The People's fifth claim alleges that Respondent violated Colo. RPC 8.4(c), which proscribes lawyers' conduct involving dishonesty, fraud, deceit, or misrepresentation. The People need not show that Respondent acted with actual knowledge to establish a violation of this rule.[110] Rather, they need only demonstrate a culpable mental state greater than simple

[107] *See* Ex. 193 at 2; Ex. 203 at 4.

[108] Respondent's purported mere potential exposure to the COVID-19 virus on April 2, 2021, in no way precluded, excused, or absolved him from timely submitting his prehearing materials that day. *See* Ex. 189 at 2.

[109] We acknowledge that Respondent's pre-April 6, 2021, failure to comply casts doubt on his assertions about his health post-April 6, 2021, leading us to question whether all of his pronouncements of illness were simply efforts to temporize. But given the email and notice he sent around April 7, 2021, we cannot find clear and convincing evidence of malingering post-April 6, 2021, and thus we rest our finding as to this claim only on his behavior predating April 6, 2021.

[110] *People v. Clark*, 927 P.2d 838, 840 (citing *People v. Rader*, 822 P.2d 950, 953 (Colo. 1992)).

negligence[111]—in other words, a mental state of at least recklessness.[112] Lawyers act with recklessness by deliberately closing their eyes to facts they have a duty to see.[113]

The People contend Respondent violated this rule by offering a falsified service of process affidavit to convince the Arapahoe County District Court that he effected proper service on Jones in the Arapahoe County interpleader case. They argue that Respondent knew or should have known the return of service had been manipulated but that he filed it, anyway.[114] The People point, in large part, to Judge Martinez's finding that the second return represented an attempted fraud perpetrated in open court, a finding echoed by the court of appeals. In the alternative, the People contend that Respondent filed the first return with reckless disregard for its accuracy or integrity—in other words, that Respondent reasonably knew or should have known the return of service was notarized before the process server signed the document. Respondent disputes the claim. He insists he never falsified any document, and he maintains that he had other solid arguments regarding service.

We agree that the second return of service is irregular, to put it mildly.[115] It looks as if it were cleaved in half, with the bottom right corner pulled downward at a slight angle. In the gap appears a signature and a signature line, which do not match each other or the name of the affiant. The document appears distorted, enlarged in some places and compressed in others. And it has no fax header, even though Respondent purportedly received it via fax. We agree that one could reasonably conclude, as the trial court and the court of appeals did, that the second return of service was contrived. We need not reach that far here, however, to find a violation of Colo. RPC 8.4(c).

We find by clear and convincing evidence that Respondent filed the first return of service with at least reckless disregard for the accuracy or integrity of the document.[116] Respondent offered the document as evidence that Jones was served. The return, however, bears no signature yet is notarized, gutting the very purpose of the notarization.[117] That a notary public would authenticate a nonexistent signature on a legal attestation is unnerving. That a licensed lawyer

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[111] *In re Cardwell*, 50 P.3d 897, 900 (Colo. 2002) (ruling that simple negligence will not satisfy the scienter element required for a finding of dishonesty or misrepresentation).

[112] *Rader*, 822 P.2d at 953; *In re Fisher*, 202 P.2d 1186, 1203 (Colo. 2009) (holding that a mental state of at least recklessness is required for a Colo. RPC 8.4(c) violation) (internal quotes and citations omitted).

[113] *Rader*, 822 P.2d at 953 (internal quotes omitted).

[114] The People do not allege, and we do not find, that Respondent himself falsified either return of service.

[115] Ex. 186.

[116] Ex. 185.

[117] *See* C.R.S. § 24-21-505(3) ("A notarial officer who witnesses or attests to a signature shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and signing the record has the identity claimed.").

would then file such a document to support the continuing viability of his pleaded claims is outrageous. On its face, the return is neither accurate nor has integrity, yet Respondent represented its veracity when he attached it to his motion for default.[118]

We find that Respondent submitted this return at least recklessly. He did not file this return in the normal course of business by uploading it to the e-filing system soon after it was purportedly faxed to him. Instead, nearly five years passed between the document's ostensible creation and its unveiling, which, according to Respondent, was preceded by his substantial efforts to unearth it in his garage. He then attached the return to a motion for default, both of which he must have anticipated would be scrutinized and heavily litigated. It defies reason to believe that he submitted that document without at least closing his eyes to its obvious shortcomings.[119] We conclude Respondent violated Colo. RPC 8.4(c) by acting, at a minimum, with recklessness when he offered the first return of service as proof that Jones had been served in the Arapahoe County interpleader action.

Claim VI (Colo. RPC 8.4(d))

Finally, the People allege that Respondent violated Colo. 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. The People argue that Respondent violated this rule by embarking on what has become a nine-year litigation odyssey to recover his fees. They characterize his litigation tactics—including filing the same claims against the same parties in two separate cases, failing to comply with court orders, and failing to appear for trial—as vexatious. These tactics, the People contend, resulted in multiple appeals, intentional delays, hundreds of thousands of dollars in attorney's fees, and countless wasted hours invested by judicial officers and court staff.

Respondent defends his actions in these cases. He argues that Robinson-Hines signed a contract, so he was entitled to pursue recovery of his attorney's fees under that document, just as he was entitled to appeal his losses. He blames others for delays, difficulties, or obstacles in the litigation, contending that Jones misdirected him to the wrong venue for the probate hearing to approve the settlement; that Judge Weishaupl caused the delays and dismissed the Arapahoe County interpleader action, forcing him to refile the same claims in Denver; that Judge Martinez did not give him sufficient time to present evidence showing the contingency fee's validity; and that he was so ill with COVID-19 that he could not attend the trial or seek to continue it.

[118] *See* Ex. 187 at 87:17-21.

[119] Indeed, Respondent testified that even when he first received this document in March 2016, he immediately noticed that it was notarized yet lacked a signature. The Hearing Board has no reason to suspect he would not likewise have quickly spotted this conspicuous defect again when he found it in 2021.

The Hearing Board finds that the People have proved this claim by clear and convincing evidence.[120] This litigation has its genesis more than twelve years ago, and Respondent's quest to recover his fees has lasted almost nine. During that time, Respondent was entitled, to be sure, to pursue his attorney's fees and to appeal his losses, but his self-advocacy crossed the line into vexatious litigiousness, burdening his former client, opposing counsel, and the courts. Indeed, Respondent wielded his law license as a cudgel against Robinson-Hines, her family, Evans and his firm, and Jones. We find that the overall gestalt of his litigation approach violated Colo. RPC 8.4(d), but we also point to seven specific instances when Respondent's behavior prejudiced the administration of justice:

- Respondent filed in Denver District Court claims that were, for all intents and purposes, identical to those he had lodged in Arapahoe County District Court, creating confusion, duplication, and waste.[121]

- Respondent brought claims in both Denver District Court and Arapahoe County District Court, including claims premised on RICO and COCCA, for which he could not explain the factual bases. We deem these claims arbitrary, baseless, and intended, at least in part, to vex and harass Evans by embroiling him in litigation.[122] We make this finding with an eye toward Respondent's admission that Evans "crawled under [his] skin" and used language that "provoked" him, causing him to react and to "push stuff that [he] probably shouldn't have."

- Respondent's filings included personal attacks on Evans and the Arapahoe County judiciary that did nothing to advance his position and thus seemingly had no purpose other than to disparage opposing counsel and judicial officers.[123] This unprofessional demeanor "exceeded the bounds of acceptable litigation strategy and evidenced a disregard for his professional responsibility to the tribunals."[124]

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[120] To provide background and procedural context, the People presented, and we recite in this opinion, evidence of Respondent's conduct stretching back to January 2011. But in deciding this claim, we consider Respondent's conduct occurring only after June 2, 2017. We do so in recognition of the five-year rule of limitations set forth in C.R.C.P. 242.12, as the People did not argue, and thus we do not consider, whether the continuing offense doctrine should apply here. *Cf. In re Stanwyck*, 2011 WL 9375624, *1 (Cal. Bar Ct. July 15, 2011). As a result, we need not address Respondent's argument that equitable estoppel bars the People's claims. *See* Respondent's Hr'g Br. at 4.

[121] *See* Ex. 203 at 6; *In re Olsen*, 2014 CO 42, ¶ 23 (finding a lawyer prejudiced the administration of justice by making repetitive and often unsupported motions).

[122] *The Fla. Bar v. Committe*, 916 So. 2d 741, 746-47 (Fla. 2005) (finding a lawyer prejudiced justice by filing two frivolous lawsuits to harass the lawyer's creditor).

[123] *See* Exs. 84-85, 203 at 7.

[124] *Olsen*, ¶ 23; *see also In re Abbott*, 925 A.3d 482, 486-87 (Del. 2007) (concluding that a lawyer prejudiced the administration justice because his briefs included personal attacks against opposing counsel and implied that the court was biased against his client).

- Respondent filed motions with unsupported procedural assertions. As but one example, he called upon Judge Martinez to apply the law of the case, insisting that Judge Weishaupl had concluded his contingency fee agreement was valid and subject to arbitration. Ultimately, Judge Martinez ruled that Respondent's representation of the law of the case was incorrect, but not before the judge had spent considerable time researching and chasing down that "red herring."

- Respondent failed to respond to motions, orders, or communications, delaying the judicial process.[125] As Evans testified, a hallmark of this litigation was the "large amounts of time" that would elapse when "you would not hear from [Respondent]." This happened often during the month of December, when Respondent would take a month-long religious holiday; based on the record, he seemingly made few or no arrangements to monitor or respond to court proceedings during those vacations.[126] But Respondent failed to act at other times, too. For instance, when Robinson-Hines and Walton moved for summary judgment in autumn 2019, Respondent did not respond. He later moved to reconsider, yet he again failed to timely respond after being given more time. Further, in March and April 2021, he never submitted pretrial materials, as Judge Martinez ordered.

- Respondent filed a faulty return of service purportedly showing "imputed" service on Jones in a "vexatious attempt to forestall the inevitable."[127] We conclude he filed this baseless return with the goal, at least in part, of delaying or defeating the imposition of attorney's fees and costs in Jones's favor.

- Respondent's failure to appear for trial without filing a motion to continue or warning Laird or Judge Martinez that he would not attend hampered the "efficient and proper operation of the court[]."[128] Laird prepared assiduously for the trial, Judge Martinez reserved jurors, and judicial staff readied the courtroom for trial in compliance with COVID-19 protocols. Each of these efforts was wasted. This conduct is even more egregious when considering that in the lead-up to trial, Respondent worked on other cases despite his alleged illness.

These seven examples underscore Judge Martinez's conclusion that Respondent "consistently conducted himself as though the rules and the law that apply to lawyers, and lawyers representing themselves, did not apply to him."[129] We conclude without hesitation that Respondent's conduct prejudiced the administration of justice.

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[125] *See In re Roose*, 69 P.3d 43, 46 (Colo. 2003) (finding that a lawyer prejudiced the administration of justice by leaving courtroom midtrial in defiance of the judge's order).
[126] *See* Ex. 116 (announcing he had not opened in the e-filing system any filing or ordered entered in December 2018 until approximately January 21, 2019).
[127] *Stanwyck*, 2011 WL 9375624, at *4.
[128] *Iowa Supreme Court Att'y Disciplinary Bd. v. Kingery*, 871 N.W.2d 109, 121 (Iowa 2015).
[129] Ex. 203 at 6.

IV. SANCTIONS

In determining sanctions, the Hearing Board is guided by the framework established by the American Bar Association *Standards for Imposing Lawyer Sanctions* ("ABA *Standards*")[130] and Colorado Supreme Court case law.[131] That framework counsels us to consider the duty the lawyer violated, the lawyer's mental state, and the actual or potential injury caused by the lawyer's misconduct. These three variables yield a presumptive sanction that we may then adjust, in our discretion, based on aggravating and mitigating factors.[132]

ABA Standard 3.0 – Duty, Mental State, and Injury

Duty: Respondent violated duties he owes to the legal system to obey court orders, to act with candor and probity, and to promote the efficient and effective administration of justice.

Mental State: In line with our analysis of the Colo. RPC 3.4(c) claim, we find that Respondent knowingly violated Judge Martinez's order of March 29, 2021, to confer and file pretrial materials. As relevant to Respondent's violation of Colo. RPC 8.4(c), we find that he acted at least recklessly when he attached the first return of service to his motion for default.[133] Finally, we conclude that Respondent acted largely with a knowing mental state when he engaged in conduct that prejudiced the administration of justice. We qualify that finding, however, by concluding that Respondent filed duplicative and baseless claims at least partially because he wished to vex and harass Evans.

Injury: Respondent caused the judicial system, Robinson-Hines, Walton, Evans, and Jones actual injury. While we edge toward deeming some of this injury serious, we ultimately decline to do so, as the People did not specifically explain why we should make that finding. We discuss in turn each category of harm.

Respondent's conduct undoubtedly wasted scarce judicial resources. According to Judge Martinez, this case should have been a relatively straightforward fee dispute but instead ballooned into almost a decade of multivenue litigation. Respondent's motions often contained unsupported procedural assertions, forcing the judge and his staff to spend hours tracking down those erroneous "lost leads." Respondent's specious motion for default against Jones—which he delayed in filing for almost five years after he purportedly served her—likewise took a significant amount of the judge's time and energy, both in convening two hearings and in researching and adjudicating the issue. Judge Martinez also denounced Respondent's failure to file pretrial

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

[131] *See Roose*, 69 P.3d at 46-47.

[132] *In re Attorney F.*, 2012 CO 57, ¶ 15 (Colo. 2012).

[133] For purposes of applying the ABA *Standards* when assigning sanctions, recklessness is treated as equivalent to a knowing state of mind. *See* Colo. RPC 1.0 cmt. 7A; *People v. Small*, 962 P.2d 258, 260 (Colo. 1998).

materials, which jeopardized the judge's efforts to expedite the case and to avoid surprise or ambush at trial. Judge Martinez relayed that "strict compliance with the final pretrial order and those expectations is paramount generally," but he added that it was especially crucial in spring 2021, when strict COVID-19 courtroom protocols limited the jury pool. Judges therefore effectively had to lobby for trial time, because if one court went to trial, others could not. For this reason, Judge Martinez's most trenchant criticism was aimed at Respondent's failure to appear for the trial on May 17, 2021. Judge Martinez explained that judges in the district would "roundtable" a week in advance to determine which courtroom would be allotted jurors. Judge Martinez persuaded his fellow jurists that this case deserved to go to trial—and should thus take precedence over criminal matters, which carried with them speedy trial concerns—due to its age, size, and multidistrict litigation status. Respondent's failure to appear to prosecute his own claims, after Judge Martinez positioned this case at the "apex" of the litigation cycle, wasted much-needed resources by siphoning them away from COVID-backlogged criminal cases. Finally, Judge Martinez remarked that his sole staff member at the time devoted at least three days to preparing for the scheduled trial; because Respondent never bothered to alert the court that he would not appear, that time was squandered.

From a practitioner's perspective, Laird agreed that Respondent's conduct dragged the system down and burdened his fellow lawyers. His filings were "always confusing" and noncompliant, she said, and they "required an immense amount of analysis" to decipher what he was requesting and why. She lamented the wasted time and effort she invested in trying to unravel his claims and to get the case to trial, all for Respondent to "no show" in the end. Respondent's approach to practicing law, she concluded, "is damaging and destructive" because he "uses his law license as a weapon" against lawyers and clients alike. Evans echoed that sentiment, opining that the harm Respondent caused the judicial process and the profession was "incredible," as the system did not know how to handle Respondent's missed deadlines, excuses, and obstructions.

Laird and Evans both expressed indignation about the harm Robinson-Hines sustained. Laird said that Respondent attacked Robinson-Hines's credibility in several fora, while Evans testified that Respondent dragged Robinson-Hines into perpetual litigation, threatening to deplete all of her settlement funds and in fact significantly delaying the funds' disbursement. Laird remarked that it is "incredibly sad" that instead of acting as Robinson-Hines's "champion and protector," Respondent instead went to battle against her, attempting to take everything from her.

Evans reported that he was harmed by Respondent's misconduct. This "case of a lifetime" has lasted half of his career, he noted, and has represented an "incredible financial loss" to him and his law firm. He stated that Evans Case wrote off or no-charged countless hours spent defending Robinson, Walton, and the two minors against Respondent's claims.

Finally, Jones testified about the practical and emotional injury Respondent caused her. She has been ensnared in years of litigation because she worked an estimated sixteen hours on Robinson-Hines's matter. But Respondent has never paid any portion of the judgment he owes

her for her attorney's fees and expenses. Further, concerned about financial liability stemming from Respondent's lawsuits, Jones and her husband did not list her as an owner of the house on which she has been making mortgage payments for the last several years. More recently, as she has started her own law firm, she has been required to explain the litigation against her while she looked for a malpractice carrier and applied for an operating account. These experiences were "embarrassing" and "taxing personally," Jones explained.

ABA Standards 4.0-8.0 – Presumptive Sanction

Two ABA *Standards* apply here. First, we consider ABA *Standard* 6.22, which calls for suspension when a lawyer knows that they are violating a court order, thereby causing a client injury or potential injury or causing interference or potential interference with a legal proceeding. We also consider ABA *Standard* 6.12, which generally applies when a lawyer knows that false information is submitted to the court but takes no remedial action, causing a party injury or potential injury or causing an adverse or potentially adverse effect on the legal proceeding.

ABA Standard 9.0 – Aggravating and Mitigating Factors

Aggravating circumstances include any considerations that justify an increase in the degree of the sanction to be imposed, while mitigating factors warrant a reduction in the severity of the sanction.[134] As explained below, we apply six factors in aggravation, assigning three substantial weight and one almost no weight. We accord one mitigating factor modest weight.

Aggravating Factors

Prior Disciplinary Offenses – 9.22(a): Respondent has been disciplined thrice. In 1999, he was privately admonished for failing to pursue his client's motion to modify child support; failing for six months to set that motion for a hearing; engaging in dishonest conduct by charging his client for the cost of a hearing transcript, a part of which she had already paid and the other part Respondent had not incurred; and failing to timely pay the court reporter for his portion of the transcript expense.

In 2004, Respondent was suspended for six months, all but thirty days stayed upon his successful completion of a two-year period of probation. He engaged in deceptive conduct after initially suing an airline, which had lost one of his bags. When Respondent brought the lawsuit in Denver County Court he represented that the amount in controversy was under $10,000.00. But the airline later transferred the case to district court on its counterclaim, alleging that Respondent had engaged in fraud when he stated during discovery that his losses amounted to almost $50,000.00. Respondent never produced documentary evidence in support of the specific items lost and the amounts he claimed.

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

In 2015, Respondent received a public censure. In one matter—Robinson-Hines's underlying litigation—Respondent neglected to obtain an e-filing account, did not receive the motion to dismiss Robinson-Hines's case or Judge Crabtree's order to respond, and thus did not respond to the order, leading Judge Crabtree to dismiss the case. Respondent also refused to turn over Robinson-Hines's file until Evans complained to disciplinary authorities. In another matter, Respondent placed a bankruptcy client's funds into his operating account, rather than his trust account, before he earned those funds. Respondent also left the country for six weeks, before the window of time in which he and the client had planned to file the bankruptcy petition. The client tried unsuccessfully to contact Respondent to ask about her case during this period, but her questions went unanswered.

This disciplinary history carries significant aggravating importance, not only because some common threads run through Respondent's prior cases and this one—namely, instances of dishonesty and failure to advance litigation—but also because Respondent's last discipline arose from Robinson-Hines's matter, the very same one implicated here.

Dishonest or Selfish Motive – 9.22(b): Respondent relentlessly chased his attorney's fees with a selfish motive to recoup as much of Robinson-Hines's settlement as possible. Along the way, he used the litigation, in part, as a vehicle to pursue a vendetta against Evans and Jones. We accord average aggravating weight to this factor.

Pattern of Misconduct – 9.22(c): Respondent's vexatious course of conduct spanned close to a decade. It also related to his most recent disciplinary case in which he was publicly censured for misconduct related to the settlement of Robinson-Hines's case. We give this aggravating factor above-average weight.

Refusal to Acknowledge Wrongful Nature of Conduct – 9.22(g): When we asked Respondent whether he has any regrets about the underlying matter, he listed several: he took Robinson-Hines's case; he did not ask Robinson-Hines's mother to prevail on her "not to be so greedy"; and he used an unknown process server to experiment with technology when serving Jones. While he also acknowledged that he lost his "cool" and felt "provoked" to advance arguments that he "probably shouldn't have" advanced, he generally telegraphed the message that he himself was the victim in the fees litigation and that his actions were justified because others treated him badly. We find that overall, Respondent evinced a refusal to acknowledge the wrongful nature of his conduct.[135] We weigh this factor heavily.[136]

Vulnerability of Victim – 9.22(h): The People urge us to apply this factor, but we will not do so. The claims pleaded in this disciplinary case do not implicate Robinson-Hines's attorney-

[135] For the same reason, we cannot find that Respondent is entitled to mitigation for remorse under ABA *Standard* 9.32(l).

[136] *See Boydell,* 760 So. 2d at 331 ("even assuming respondent was seeking to 'defend his honor,' as he suggests, the fact remains that he is subject to a professional obligation to refrain from engaging in harassing or malicious litigation").

client relationship with Respondent. Rather, during the events at issue here, Robinson-Hines was represented by Evans and thus was not particularly vulnerable.

Substantial Experience in the Practice of Law – 9.22(i): Respondent was admitted as a Colorado lawyer in 1995 and has practiced law since then. While he has substantial experience in the practice of law, we decline to accord this factor anything more than de minimus aggravating weight because his "great deal of experience" has not translated into a professional maturation that shows he "know[s] better than to engage in misconduct."[137] Thus, rather than applying meaningful weight to this factor, we elect in our discretion to apply heavier weight to Respondent's prior disciplinary offenses.

Indifference to Making Restitution – 9.22(j): Respondent has not paid anything toward the judgment award that Judge Martinez ordered. We assign this factor average weight.

Mitigating Factors

Absence of Dishonest or Selfish Motive – 9.32(b): Respondent argues that he did not act with a selfish motive, as he used about $43,000.00 of his own money "to turn a bad case into a case that settled for $300,000.00."[138] Respondent misunderstands the thrust of this case, which examines the propriety of how he went about trying to recoup those costs, not the merits of the underlying Adams County case. We will not give Respondent credit for this factor.

Delay in Disciplinary Proceedings – 9.32(j): According to Respondent, his ability to defend this case was impaired due to a delay in this proceeding. The Court set the hearing in late January 2023 to accommodate Respondent's month-long religious vacation, but otherwise this case has proceeded along normal timeframes, with little delay. Simultaneously, Respondent faults the Court for scheduling the hearing without giving him adequate time to retain a lawyer. But the Court advised Respondent early in the proceeding to find counsel as soon as possible, and it warned Respondent that it would not continue the hearing to give him more time to secure representation. Even so, Respondent moved to continue the hearing just twenty days before it began. Needless to say, we do not apply this mitigating factor.

Imposition of Other Penalties or Sanctions – 9.32(k): This mitigating factor merits minimal credit in recognition that Judge Martinez ordered Respondent to pay fees and costs totaling more than $330,000.00. The Hearing Board may have given this factor more weight if Respondent had actually paid any money toward satisfying that judgment.

[137] ABA *Annotated Standards for Imposing Lawyer Sanctions*, 480.

[138] Respondent's Hr'g Br. at 6. The Hearing Board is wary about this representation, given that Respondent's notice of costs lists almost $8,000.00 in interest. *See* Ex. M.

Other Mitigating Considerations:[139] Respondent advances two other mitigating factors, neither of which we consider favorably. First, Respondent accuses Robinson-Hines of being an uncooperative client. This allegation is both factually irrelevant to the proven misconduct in this matter and legally irrelevant to our sanctions analysis.[140] Second, Respondent contends he was sick at various times—both during the trial period in May 2021 and during the hearing in this disciplinary case—which mitigated his misconduct. The Hearing Board rejects this call for mitigation. We do not find credible Respondent's claim that he was physically unable to file a motion to continue the May 2021 trial, particularly given that he had been practicing law in the days and weeks before the trial setting. Respondent's physical health during the disciplinary hearing has no causal nexus with his misconduct and, in any event, he was able to defend himself at the hearing.

Analysis Under ABA Standards and Case Law

The Colorado Supreme Court directs the Hearing Board to exercise discretion in imposing a sanction and to carefully apply aggravating and mitigating factors.[141] In so doing, we are mindful that "individual circumstances make extremely problematic any meaningful comparison of discipline ultimately imposed in different cases."[142] We are charged with determining the appropriate sanction for a lawyer's misconduct on a case-by-case basis, but we recognize that prior cases can guide us by analogy.[143]

We first examine cases that address lawyers' defiance of court orders and abusive, frivolous, or vexatious litigation. The People analogize Respondent's misconduct to that in the California bar case *Stanwyck*, where a lawyer was disbarred for "repeatedly fil[ing] arbitrations and lawsuits to rehash adjudicated issues and claims"; he thereby "wasted judicial resources, burdened the courts with frivolous filings, delayed proceedings and harassed parties, including judges who decided cases against him," which was deemed "most significant" harm to the legal system and the parties.[144] The People also urge us consider *In re Boydell*.[145] There, the Supreme Court of Louisiana suspended a lawyer for three years, considering the great harm the lawyer caused through his intentional, vindictive, and dilatory actions in defending against a lawsuit by a

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[139] In his hearing brief, Respondent asks for credit for good character and reputation as well as cooperation with disciplinary authorities, but he presented no evidence to support either factor and thus failed to meet his burden of proof. *See* C.R.C.P. 242.30(b)(3).

[140] *See In re Pro Hac Vice Counsel Supreme Court of State*, 103 A. 3d 515 (Del. 2014), *as corrected* (Oct. 22, 2014) ("dealing with a difficult client is neither an aggravating nor a mitigating factor").

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

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

[143] *Id.* ¶ 15.

[144] 2011 WL 9375624, at *5.

[145] 760 So. 2d 326 (La. 2000).

former client who sought to recoup a portion of the attorney's fees.[146] The court applied a disbarment standard but imposed only suspension due to certain mitigating factors, including lack of prior discipline.[147]

We turn to examine similarly situated cases applying the same ABA *Standards*. In *In re White*, a lawyer, on behalf of his client, filed unwarranted actions and advanced unwarranted claims merely to harass litigation opponents, failed to appear for hearings, failed to follow a court order concerning venue, failed to prosecute claims, made a false statement to a court, and assaulted a police officer.[148] Applying ABA *Standards* 6.12 and 6.22, and considering four aggravators and two mitigators, the Supreme Court of Oregon suspended the lawyer for three years.[149] In contrast, in *In re Cottingham*, a Washington state lawyer was met with a shorter period of suspension for similar misconduct.[150] There, the lawyer embarked on a "a five-year boundary line dispute against his neighbor" involving "two lawsuits, four judicial appeals, two administrative appeals, countless motions, years of delay, unnecessary and wasteful expenditure of judicial resources, injury to his neighbors, and nearly $60,000 in sanctions . . . ."[151] The court suspended the lawyer for eighteen months after applying ABA *Standard* 6.22 and taking into account four aggravators and three mitigators, including the lawyer's lack of prior discipline and his satisfaction of all sanctions against him.[152]

As regards the defective return of service Respondent filed with the Arapahoe County District Court, we review several cases that, while not entirely on all fours factually, assist us in assigning a proportionate sanction here. In *In re Wahlder*, the Supreme Court of Louisiana suspended a lawyer for six months, all stayed subject to a one-year period of supervised probation.[153] The lawyer, who witnessed a client affixing the signature of the client's wife on settlement documents without her knowledge, attempted to hide his client's misconduct from the client's wife and the court.[154] The court imposed the stayed suspension due, in part, to mitigating circumstances, but two justices dissented, stating they would have imposed a harsher sanction.[155] In Oregon, a lawyer met with a bankruptcy client, who was scheduled to leave the country within a few days; the lawyer had the client sign a blank Chapter 7 bankruptcy petition and accompanying schedules and forms that contained "perjury clauses," or declarations under penalty of perjury that the information provided was true and correct to the best of the signer's knowledge.[156] The lawyer then completed the petition, forms, and schedules himself, which was

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[146] *Id.* at 331-32.
[147] *Id.* at 332.
[148] 815 P.2d 1257, 1258 (Or. 1991).
[149] *Id.* at 1267.
[150] 423 P.3d 818, 827 (Wash. 2018).
[151] *Id.* at 820.
[152] *Id.* at 827.
[153] 728 So. 2d 837, 841 (La. 1999).
[154] *Id.* at 840.
[155] *Id.* at 840-41.
[156] *In re Jones*, 951 P.2d 149, 150 (Or. 1997).

deemed a misrepresentation.[157] The lawyer was suspended for forty-five days.[158] Finally, we consider *The Florida Bar v. Berthiaume*, where a lawyer signed and served by mail a fraudulent subpoena directed to a bank, commanding it to produce, under penalty of contempt, information regarding checks that the lawyer's client had written to the lawyer from the client's bank account.[159] The lawyer deliberately designed the purposefully misleading subpoena, which was not authorized by law, to compel the bank to produce records.[160] With no aggravators and five applicable mitigators, the Florida court suspended the lawyer for ninety-one days.[161]

These cluster of cases suggest that Respondent's knowing disobedience of court orders and his abuse of the legal process warrants a suspension somewhere between eighteen and thirty-six months. Unlike *Stanwyck* or *Boydell*, we do not apply disbarment standards in this case, largely because the People did not present clear guidance as to what constitutes serious injury. Respondent's conduct may not have been quite as aggravated as that described in *White*, as that lawyer was disciplined for also assaulting a police officer. Yet Respondent's conduct certainly is more serious than *Cottingham*; that lawyer had no prior discipline and rectified the consequences of his misconduct by paying all sanctions against him, neither which pertain here. Meanwhile, the fraud cases discussed above suggest that Respondent's reckless presentation of a flawed return of service to the Arapahoe County District Court warrants a short suspension, perhaps in the range of one or two months.

Thus, without considering the balance of aggravating and mitigating factors, we reckon that Respondent's misconduct justifies a suspension of around two-and-a-half years. Factoring in the six aggravators and one mitigator, however, we conclude that Respondent should be sanctioned at the top of the suspension range and compelled to shoulder the fees and costs that have been assessed against him. His refusal to acknowledge the harm he has caused and his impulse to rationalize it as a reciprocal tit-for-tat reveals a distressing lack of insight about the many ways he ran roughshod over the judicial process. His selfish motive and indifference to paying any of the judgment award reinforces that conclusion. Most influential to us, however, is Respondent's three prior instances of misconduct, which echo many of the same refrains that played out in this case. We conclude that Respondent should be suspended for three years, with the condition that as part of any petition for reinstatement, he must demonstrate that he satisfied the full judgment award against him, as set forth in Judge Martinez's order of July 16, 2021.[162]

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[157] *Id.*

[158] *Id.* at 152-53 (considering two aggravators, including prior discipline, and three mitigators).

[159] 78 So. 3d 503, 505 (Fla. 2011).

[160] *Id.*

[161] *Id.* at 511.

[162] *See* Ex. 206 at 3. We do not view the judgment award as "restitution" under C.R.C.P. 241. But C.R.C.P 242.31(a)(3) authorizes us, in our discretion, to enter "other appropriate orders," which are not limited to orders of restitution. *See* C.R.C.P. 241 ("'including' means including but not limited to").

V. CONCLUSION

Seeking redress within the judicial system "lies at the heart of what lawyers do."[163] But lawyers have a duty to refrain from engaging in conduct that abuses the legal process or interferes with the effective administration of justice. Here, Respondent's quest to collect the full measure of his attorney's fees well exceeded the bounds of legitimate advocacy, crossing into the realm of vexatious litigation. Exercising our discretion, we impose a three-year suspension, with a condition on Respondent's reinstatement, to protect the judicial system and to prevent him from continuing to use his law license as a weapon against clients and other members of the profession.

VI. ORDER

The Hearing Board therefore **ORDERS**:

1. **CHUCK ODIFU EGBUNE**, attorney registration number **26022**, is **SUSPENDED FOR THREE YEARS**. The suspension will take effect upon issuance of an "Order and Notice of Suspension."[164]

2. As part of any petition for reinstatement under C.R.C.P. 242.39(b) from the suspension imposed in this case, Respondent **MUST** demonstrate that he has satisfied the judgment against him as set forth in Judge Martinez's order of July 16, 2021, which awarded $222,124.98 to Aaron Evans and Evans Case LLP; $56,576.77 to Kari Jones; and $51,850.00 to Monique Robinson-Hines and Iyona Walton.

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

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

5. The parties **MUST** file any posthearing motions no later than **Tuesday, April 4, 2023**. Any response thereto **MUST** be filed within fourteen days thereafter.

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[163] *In re Goffe*, 641 A.2d 458, 465 (D.C.1994).

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

6. The parties **MUST** file any application for stay pending appeal no later than **no later than the date on which the notice of appeal is due**. Any response thereto **MUST** be filed within seven days.

7. Respondent **MUST** pay the reasonable costs of this proceeding. The People **MUST** submit a statement of costs no later than **Tuesday, March 28, 2023**. Any response challenging the reasonableness of those costs **MUST** be filed within seven days thereafter.

DATED THIS 21st DAY OF MARCH, 2023.

BRYON M. LARGE
PRESIDING DISCIPLINARY JUDGE

DIANE M. BROWN
HEARING BOARD MEMBER

WADI MUHAISEN
HEARING BOARD MEMBER