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**STATE OF WASHINGTON**  
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Supreme Court No. 201,448-8

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IN THE SUPREME COURT OF THE STATE OF WASHINGTON

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IN RE DISCIPLINARY PROCEEDING AGAINST

BAKARY FANSU CONTEH,

Lawyer (Bar No. 35098).

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ANSWERING BRIEF OF THE  
OFFICE OF DISCIPLINARY COUNSEL  
OF THE WASHINGTON STATE BAR ASSOCIATION

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 ORIGINAL

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## **I. STATEMENT OF THE ISSUE**

After a two-day disciplinary hearing, the hearing officer issued a detailed decision concluding that Respondent Bakary Fansu Conteh had neglected two client matters and failed to inform his clients that their cases had been seriously, and in one case fatally, compromised. The hearing officer recommended a two-year suspension, based in part on five aggravating factors, including two prior disciplinary actions.

Respondent did not seek review of the hearing officer's decision. In a unanimous decision, the Disciplinary Board declined to order *sua sponte* review, and adopted the hearing officer's decision. Given that *sua sponte* review should be ordered only in extraordinary circumstances to prevent substantial injustice or to correct a clear error, did the Board err in declining to order *sua sponte* review?

## **II. STATEMENT OF THE CASE**

### **A. SUBSTANTIVE FACTS**

#### **1. Grievance by Saffie Badjie**

In January 2008, Saffie Badjie, a Gambian national, was arrested by agents of the United States Department of Homeland Security and placed in removal proceedings. Findings of Fact, Conclusions of Law,

and Hearing Officer's Recommendations (FFCLR)<sup>1</sup> ¶¶ B1, B3. Respondent appeared on Ms. Badjie's behalf, filed an application for asylum on her behalf, and represented her at a hearing on March 8, 2011. FFCLR ¶¶ B7-B9. On the same date, the immigration judge denied Ms. Badjie's request for asylum and her request for voluntary departure. FFCLR ¶ B10.

Respondent agreed to represent Ms. Badjie in her appeal to the Board of Immigration Appeals (BIA). FFCLR ¶ B13. He filed a notice of appearance and a notice of appeal on her behalf and received a briefing schedule. FFCLR ¶¶ B14, B23. Respondent was informed that his brief was due June 16, 2011. FFCLR ¶ B23. Respondent knew, and was repeatedly warned, that:

- His brief must be received by the BIA on or before the date it was due;
- Extensions of the briefing schedule would only be granted for good cause;
- BIA policy was to grant no more than one extension;
- A late-filed brief would be rejected;
- A party wishing to file an untimely brief must file a motion asking the BIA to accept the untimely brief;

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<sup>1</sup> The FFCLR are attached to the Disciplinary Board Order Declining *Sua Sponte* Review and Adopting Hearing Officer's Decision, which is attached hereto as Appendix A. The findings of fact are referenced by paragraph number. Other parts of the FFCLR are referenced by page number.

- The motion must be supported by documentary evidence such as affidavits and declarations under penalty of perjury; and
- The BIA might summarily dismiss the appeal if Respondent failed to file his brief on time.

FFCLR ¶¶ B15-B25.

On June 15, 2011, one day before his brief was due, Respondent moved for an extension of time. FFCLR ¶¶ B30, B32. Respondent's motion was not supported by any affidavit, declaration, or other evidence. FFCLR ¶ B31. Nevertheless, the BIA granted an extension, and Respondent was informed that his brief must be received by July 7, 2011. FFCLR ¶ B33.

Respondent filed his brief on July 8, 2011, one day after it was due. FFCLR ¶ B34. His explanations for filing the brief late were not credible. FFCLR ¶¶ B36, B39-B43. Respondent filed a "Motion for Permission to Accept Late Appeal Brief," but he did not support it with any affidavit, declaration, or other evidence, even though he knew the BIA required such evidence. FFCLR ¶¶ B37-B38.

Even though he knew that he had filed his brief late, and that the BIA might summarily dismiss the appeal as a result, Respondent failed to inform his client, Ms. Badjie. FFCLR ¶¶ B46-B50. He failed to do so knowingly, motivated by self-interest and "seeking to obfuscate" the facts.

FFCLR at 19 lines 13-18; Order Granting ODC's Motion to Amend Findings of Fact and Conclusions of Law at 2.<sup>2</sup>

In August 2012, Respondent informed Ms. Badjie that he had been suspended from the practice of law. FFCLR ¶ B45; see In re Disciplinary Proceeding Against Conteh, 175 Wn.2d 134, 154, 284 P.3d 724 (2012). Ms. Badjie consulted a different lawyer, Elizabeth Holmes, who discovered that Respondent had filed his brief late. FFCLR ¶¶ B45-B47. Ms. Badjie learned of this for the first time when Ms. Holmes informed her. FFCLR ¶ B50.

Ms. Holmes filed a motion to remand the case to the immigration court based on ineffective assistance of counsel. FFCLR ¶¶ B52-B53. The BIA granted the motion, and the case was pending in the immigration court at the time of the disciplinary hearing. FFCLR ¶ B54. Had Ms. Holmes not filed the motion to remand, the appeal might have been dismissed due to Respondent's failure to file his brief when it was due. FFCLR ¶ B55.

## **2. Grievance by John Muthaka**

On August 14, 2009, John Muthaka was in an automobile accident. FFCLR ¶ C1. He was injured, and his car was "totaled." FFCLR ¶ C1.

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<sup>2</sup> The Order Granting ODC's Motion to Amend Findings of Fact and Conclusions of Law is attached to the Board Order Declining *Sua Sponte* Review, which is attached hereto as Appendix A.

Mr. Muthaka had no medical insurance, and his automobile policy included only liability coverage. FFCLR ¶ C2. He was not at fault. FFCLR ¶ C1. The at-fault driver was insured by Allstate. FFCLR ¶ C8.

Mr. Muthaka consulted with Respondent, who represented him in an immigration matter. FFCLR ¶ C3. Respondent told Mr. Muthaka that he would represent him in the automobile accident case, too. FFCLR ¶ C9. During the course of the representation, Respondent received multiple documents clearly showing that August 14, 2009 was the date of the automobile accident. FFCLR ¶¶ C4-C9, C25. Respondent testified that he knew Mr. Muthaka's claim was subject to a three-year statute of limitations. FFCLR ¶ C47. But Respondent never told Mr. Muthaka this, and Respondent's testimony on this point was not credible. FFCLR ¶¶ C20-C21, C47, C49.

Respondent had no written fee agreement with Mr. Muthaka, even though his fee was contingent upon the outcome of the matter. FFCLR ¶ C10; Order Granting ODC's Motion to Amend Findings of Fact and Conclusions of Law at 1-2. Respondent failed to explain the basis or rate of his fee to Mr. Muthaka. FFCLR ¶¶ C10, C18. Respondent's testimony

about his fee arrangement with Mr. Muthaka was inconsistent, contradictory, and not credible.<sup>3</sup> FFCLR ¶ C17.

In April 2010, Respondent notified Allstate that he represented Mr. Muthaka. FFCLR ¶ C25. Over the next 28 months, before the statute of limitations expired, Allstate representatives made repeated efforts to settle Mr. Muthaka's claim with Respondent. FFCLR ¶¶ C26-C33, C36-C37. Respondent repeatedly failed to respond to communications and requests for information, and failed to take any significant action to settle or litigate Mr. Muthaka's claim. FFCLR ¶¶ C27-C32, C36-C40, C45, C55.

Respondent also failed to consult with Mr. Muthaka, failed to keep him informed about the status of his claim, and specifically failed to inform him when the statute of limitations would expire. FFCLR ¶¶ C43-C44, C47-C49, C52. At some point, Mr. Muthaka's chiropractor warned him that the statute of limitations might be approaching. FFCLR ¶ C46. When Mr. Muthaka passed on this warning to Respondent, Respondent told him not to worry because he was "taking care of it" and he "knows

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<sup>3</sup> At the hearing, Respondent testified that he charged on an hourly basis. FFCLR ¶ C11. He also testified that he charged a flat fee. FFCLR ¶¶ C12, C16. At his deposition, Respondent testified that he would charge a percentage of the recovery, and that he would charge nothing if there was no recovery. FFCLR ¶¶ C13-C14. Later, after he learned of the potential disciplinary charges against him, Respondent claimed that he did not have a contingent fee arrangement, although he admitted that this claim contradicted his prior deposition testimony. FFCLR ¶ C15.

how it works.” FFCLR ¶ C46. Respondent’s deposition testimony and his response to Mr. Muthaka’s grievance indicate that he lacks even the most basic understanding of what a statute of limitations is and “how it works.” FFCLR ¶¶ C50, C61-C63.

In August 2012, after the statute of limitations expired, Respondent informed Mr. Muthaka that he had been suspended from the practice of law. FFCLR ¶¶ C51-C52; see Conteh, 175 Wn.2d at 154. Even then, Respondent failed to inform Mr. Muthaka that the statute of limitations had expired. FFCLR ¶ C52. Mr. Muthaka hired lawyer Cheryl Farrish to represent him. FFCLR ¶ C53. In September 2012, Ms. Farrish spoke with Respondent, who told her that the statute of limitations had not expired and would not expire within the next 30 days. FFCLR ¶ C54.

As soon as she received Mr. Muthaka’s file from Respondent, Ms. Farrish discovered that the statute of limitations had expired on August 14, 2012. FFCLR ¶ C55. Allstate knew that its insured was at fault, and it would have paid for Mr. Muthaka’s medical expenses and his property loss had Respondent simply provided information about them before the statute of limitations expired. FFCLR ¶¶ C41, C56-C57. But Allstate would not pay Mr. Muthaka’s claim after Respondent allowed the statute of limitations to expire. FFCLR ¶¶ C42, C64. Mr. Muthaka had over

\$11,000 in unpaid medical bills, some of which were turned over to collection agencies. FFCLR ¶ C60.

## **B. PROCEDURAL FACTS**

### **1. Hearing Officer Decision**

On December 23, 2013, ODC filed a formal complaint under ELC 10.3 charging Respondent with five counts of ethical misconduct, as follows:

#### COUNT 1

By failing to file his appeal brief on time, and/or by failing to file a Motion to Accept Late-Filed Brief that complied with the Board of Immigration Appeals' ("BIA") rules, Respondent violated RPC 1.1 and/or RPC 1.3.

#### COUNT 2

By failing to inform Ms. Badjie that he had filed his appeal brief after it was due, Respondent violated RPC 1.4.

#### COUNT 3

By failing to communicate the basis or rate of his fee to Mr. Muthaka, and/or by having a contingent fee agreement that was not in writing and/or did not communicate the information required under RPC 1.5(c)(2), Respondent violated RPC 1.5(b) and/or RPC 1.5(c).

#### COUNT 4

By failing to make reasonably diligent efforts to settle Mr. Muthaka's claim, by failing to protect Mr. Muthaka's interests by filing suit before the statute of limitations expired, and/or by failing to understand the

significance of allowing the statute of limitations to expire, Respondent violated RPC 1.1 and RPC 1.3.

#### COUNT 5

By failing to keep Mr. Muthaka reasonably informed about the status of his claim, by failing to inform him when the statute of limitations would expire, and/or by failing to inform him that the statute of limitations had expired, Respondent violated RPC 1.4.

FFCLR at 1-2.

A two-day disciplinary hearing was held on January 14-15, 2015. FFCLR at 1. On April 22, 2015, Hearing Officer David W. Wiley issued a detailed, 22-page decision under ELC 10.16. FFCLR. The hearing officer concluded that Respondent committed each of the violations alleged in the formal complaint. FFCLR at 15-16. As to each violation, the hearing officer found that Respondent acted knowingly, that he caused injury to his clients, and that the presumptive sanction under the American Bar Association Standards for Imposing Lawyer Sanctions (“ABA Standards”) was suspension. FFCLR at 16-21. The hearing officer found five aggravating factors (prior disciplinary offenses,<sup>4</sup> dishonest or selfish motive, pattern of misconduct, multiple offenses, refusal to acknowledge wrongful nature of conduct) and no mitigating factors. FFCLR at 18.

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<sup>4</sup> Respondent received a reprimand in 2009 for violating RPC 8.4(c), FFCLR ¶ 65, and a six-month suspension in 2012 for violating RPC 3.3, 8.4(c), and 8.4(d), FFCLR ¶ 66. See also FFCLR at 18; Conteh, 175 Wn.2d at 148-49, 150-51, 154.

Based on the presumptive sanctions and the aggravating factors, the hearing officer recommended that Respondent be suspended for two years. FFCLR at 22. On May 26, 2016, the hearing officer entered an order making two minor amendments to the decision. Order Granting ODC's Motion to Amend Findings of Fact and Conclusions of Law.<sup>5</sup>

## **2. Disciplinary Board Order Declining Sua Sponte Review**

Respondent could have sought review of the hearing officer's decision by filing a notice of appeal within 30 days. ELC 11.2(b)(1). But he did not file a notice of appeal or otherwise seek review of the hearing officer's decision. Accordingly, following the procedures set forth in ELC 11.3, the hearing officer's decision was distributed to the Disciplinary Board members on July 6, 2015 for consideration of whether to order *sua sponte* review. Disciplinary Board Order Declining *Sua Sponte* Review and Adopting Hearing Officer's Decision.<sup>6</sup> On July 10, 2015, the Board issued an order under ELC 11.3(a) declining *sua sponte* review and adopting the FFCLR. Id. The Board's decision was unanimous. Id.

## **3. Supreme Court Order re Record and Scope of Review**

On July 24, 2015, Respondent sought review by this Court of the Board Order Declining *Sua Sponte* Review. ODC moved to strike

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<sup>5</sup> The amendments were to FFCLR ¶ C10 and to the finding of a dishonest or selfish motive in FFCLR at 18-19.

<sup>6</sup> Appendix A.

Respondent's notice of appeal or, in the alternative, to limit the scope of review and the record on review. By order dated January 22, 2016,<sup>7</sup> the Court decided:

Mr. Conteh's appeal of the Order Denying Sua Sponte Review and Adopting the Hearing Officer's Decision is limited to ONLY the record and scope of the Disciplinary Board's review as required by ELC 11.3(a). The record of this review is therefore limited to the Hearing Officer's Findings of Fact, Conclusions of Law, and Recommendation;

The scope of the issue on appeal is limited to whether the Disciplinary Board erred by not finding that sua sponte review was required to "prevent substantial injustice or to correct a clear error," *see* ELC 11.3(d);

### III. ARGUMENT

#### A. STANDARD OF REVIEW

With respect to the administration of sanctions, this Court gives great deference to the decision of a unanimous Disciplinary Board. In re Disciplinary Proceeding Against Day, 162 Wn.2d 527, 538-39, 542, 173 P.3d 915 (2007); see also In re Disciplinary Proceeding Against Vanderveen, 166 Wn.2d 594, 616, 618, 211 P.3d 1008 (2009). The same deference should be given to a Board decision as to whether "extraordinary circumstances" require *sua sponte* review under ELC 11.3(d). This is so because "the Board is the only body to hear the full

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<sup>7</sup> Appendix B.

range of disciplinary matters,” so it has “a unique experience and perspective” both in the administration of sanctions and in determining which hearing officer decisions present “extraordinary circumstances” requiring *sua sponte* Board review. Vanderveen, 166 Wn.2d at 609; ELC 11.3(d).

**B. THE BOARD DID NOT ERR IN DECLINING SUA SPONTE REVIEW UNDER ELC 11.3(a)**

ELC 11.3(d) provides that the Board should order *sua sponte* review “only in extraordinary circumstances to prevent substantial injustice or to correct a clear error.” Respondent has failed to show that there is any “substantial injustice” or “clear error” to correct. In fact, Respondent himself admits that he “cannot articulate in any meaningful way” that there is anything wrong with the hearing officer’s decision. Respondent’s Opening Brief (ROB) at 5.

Respondent asserts, without any citation to legal authority or reference to the record,<sup>8</sup> that the two minor amendments to the FFCLR that the hearing officer made in his May 26, 2016 Order Granting ODC’s Motion to Amend Findings of Fact and Conclusions of Law were “greatly unjust,” and that by making these amendments, the hearing officer

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<sup>8</sup> RAP 10.3(a)(5) provides that a reference to the record must be included for each factual statement in a party’s statement of facts. RAP 10.3(a)(6) provides that a party’s argument is to be supported by citations to legal authority and references to the record. Respondent’s brief is notable for, among other things, the absence of citations to legal authority and references to the record.

“abdicated his responsibility as an impartial adjudicator.” ROB at 2. But ELC 10.16(c) provides a procedure for amending the hearing officer’s decision upon a party’s motion, and the hearing officer did not “abdicate his responsibility” by following that procedure.

Respondent also asserts, without citation to legal authority or reference to the record, that the Board merely “rubber stamped” the hearing officer’s decision without mentioning “the many violations of [Respondent’s] due process rights.” ROB at 3-4. And he suggests that the Board Order Declining *Sua Sponte* Review was somehow deficient because it “did not articulate when [the Board] scheduled this matter for consideration and under what circumstances [the Board members] made their votes.” ROB at 5. But there are no violations of Respondent’s due process rights even suggested by, much less apparent in, the record. The Board is presumed to have performed its functions regularly and properly without bias or prejudice, see State v. Perala, 132 Wn. App. 98, 111, 130 P.3d 852, review denied, 158 Wn.2d 1018 (2006), and Respondent offers nothing to rebut that presumption. Nothing in the ELC requires the Board members to articulate “under what circumstances” they cast their votes. See ELC 11.3(a).<sup>9</sup>

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<sup>9</sup> ELC 2.3(g) provides that “the Board may meet and act through electronic, telephonic, written, or other means of communication.”

Finally, Respondent asks the Court to “order for the production of the full record to enable him to proof [*sic*] that sua sponte review was justified.” ROB at 5. This Court has already determined, clearly and emphatically, in its January 22, 2016 order that this appeal “is limited to ONLY the record and scope of the Disciplinary Board's review as required by ELC 11.3(a)” and that “[t]he record . . . is therefore limited to the Hearing Officer's Findings of Fact, Conclusions of Law, and Recommendation” (emphasis in original). ODC will presume that this issue has been decided, that the Court’s order means what it says, and that no additional argument is necessary or appropriate unless the Court directs the parties to provide it.

#### IV. CONCLUSION

Respondent did not seek review of the hearing officer’s decision. Under ELC 11.3(d), the Disciplinary Board should order *sua sponte* review “only in extraordinary circumstances to prevent substantial injustice or to correct a clear error.” Respondent has failed to show that the hearing officer’s decision presents any “extraordinary circumstances,” any “substantial injustice,” or any “clear error” to correct. The Board’s unanimous Order Declining *Sua Sponte* Review should therefore be affirmed. ODC respectfully requests that this Court affirm the Board’s

unanimous order and its unanimous recommendation of a two-year suspension.

RESPECTFULLY SUBMITTED this 9<sup>th</sup> day of May, 2016.

OFFICE OF DISCIPLINARY COUNSEL

  
\_\_\_\_\_  
Scott G. Busby, Bar No. 17522  
Senior Disciplinary Counsel

# APPENDIX A

**FILED**

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DISCIPLINARY  
BOARD

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re  
**BAKARY FANSU CONTEH,**  
Lawyer (WSBA No.35098)

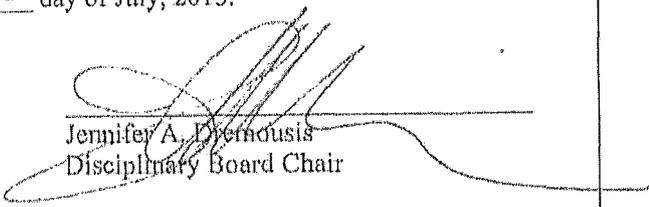
Proceeding No. 13#00112

DISCIPLINARY BOARD ORDER  
DECLINING *SUA SPONTE* REVIEW AND  
ADOPTING HEARING OFFICER'S  
DECISION

This matter came before the Disciplinary Board for consideration of *sua sponte* review pursuant to ELC 11.3(a). On July 6, 2015, the Clerk distributed the attached decision to the Board.

**IT IS HEREBY ORDERED THAT** the Board declines *sua sponte* review and adopts the Hearing Officer's decision<sup>1</sup>.

Dated this 10 day of July, 2015.

  
Jennifer A. Dremousis  
Disciplinary Board Chair

<sup>1</sup> The vote on this matter was 14-0. The following Board members voted: Dremousis, Bloomfield, Davis, Carney, Coy, McInville, Fischer, Andeen, Berger, Cottrell, Smith, Mesher, Egeler and Myers.

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CERTIFICATE OF SERVICE

I certify that I caused a copy of the Dr. Diller Declining SWA Spontaneous Review of Adopting  
to be delivered to the Office of Disciplinary Counsel and to be mailed HOS Decision  
to PAULY LUTCH, Respondent/Respondent's Counsel  
at PO Box 10701 Seattle WA 98107 by Certified/first class mail  
postage prepaid on the 10th day of JULY, 2015

[Signature]  
Clerk/Counsel to the Disciplinary Board

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**BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION**

In re  
**BAKARY FANSU CONTEH**  
Lawyer (Bar No. 35098).

Proceeding No. 13#00112  
FINDINGS OF FACT, CONCLUSIONS  
OF LAW, AND HEARING OFFICER'S  
RECOMMENDATIONS

Pursuant to Rule 10.13 of the Rules for Enforcement of Lawyer Conduct ("ELC"), a hearing was held before the undersigned Hearing Officer on January 14 and 15, 2015. Disciplinary counsel Debra Slater appeared for the Office of Disciplinary Counsel ("ODC") of the Washington State Bar Association. Respondent Bakary Fansu Conteh appeared *pro se*.

**I. FORMAL COMPLAINT**

Respondent was charged by formal complaint dated December 23, 2013, with 5 counts of violation of the rules of professional conduct. Counts 1 – 2 involve Respondent's representation of Ms. Saffie Badjie in an immigration matter. Counts 3 – 5 involve Respondent's representation of Mr. John Muthaka in a personal injury matter.

**COUNT 1**

By failing to file his appeal brief on time, and/or by failing to file a Motion to Accept Late-Filed Brief that complied with the Board of Immigration Appeals' ("BIA") rules, Respondent violated RPC 1.1 and/or RPC 1.3.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND HEARING  
OFFICER'S RECOMMENDATIONS - 1

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COUNT 2

By failing to inform Ms. Badjie that he had filed his appeal brief after it was due, Respondent violated RPC 1.4.

COUNT 3

By failing to communicate the basis or rate of his fee to Mr. Muthaka, and/or by having a contingent fee agreement that was not in writing and/or did not communicate the information required under RPC 1.5(c)(2), Respondent violated RPC 1.5(b) and/or RPC 1.5(c).

COUNT 4

By failing to make reasonably diligent efforts to settle Mr. Muthaka's claim, by failing to protect Mr. Muthaka's interests by filing suit before the statute of limitations expired, and/or by failing to understand the significance of allowing the statute of limitations to expire, Respondent violated RPC 1.1 and RPC 1.3.

COUNT 5

By failing to keep Mr. Muthaka reasonably informed about the status of his claim, by failing to inform him when the statute of limitations would expire, and/or by failing to inform him that the statute of limitations had expired, Respondent violated RPC 1.4.

II. HEARING

At the hearing on January 14 and 15, 2015, six witnesses were sworn and presented testimony, and various exhibits were admitted into evidence. The transcript in this matter was received in late January, and post-hearing briefs and proposed finding of fact and conclusions of law were successfully received by mid-March.

III. FINDINGS OF FACT

After having considered the testimony of the witnesses and other exhibits, and having reviewed the post hearing written arguments of counsel and proposed findings of fact and conclusions of law, the Hearing Officer finds the following facts were established by a clear

1 preponderance of the evidence. ELC 10.14(b). The following findings regarding Counts 1  
2 through 5 are based on the evidence presented at the hearing, specific exhibits or testimony  
3 reflected in the hearing record.

4 A. **Jurisdictional Facts.**

- 5 1. Respondent was admitted to practice law in Washington on June 21, 2004.
- 6 2. Respondent is a sole practitioner. More than 50% of his practice is in the area  
7 of immigration law. (TR 49). He also has a limited practice in family law and  
has done some very limited personal injury work (TR 49).

8 B. **Findings of Fact Regarding Counts 1-2 of the Bar Complaint.**

- 9 1. Saffie Badjie entered the United States in 2002 from the Gambia on a visitor  
10 visa and remained in the United States beyond the date authorized by her visa.  
(EX 106).
- 11 2. Concerned about Ms. Badjie's immigration status, Ms. Badjie's husband  
12 contacted Respondent in November 2008 about having him assist with her  
13 immigration matter. Ms. Badjie and her husband lived in Minnesota and had  
resided previously in Atlanta (TR 309), (TR 50-51).
- 14 3. In January 2008, while travelling from Minnesota to Seattle, Ms. Badjie was  
15 arrested and detained by the United States Department of Homeland Security.  
16 Ms. Badjie then had her 11 month old United States Citizen daughter with her.  
She was placed in removal proceedings and issued a Notice to Appear at a date  
17 to be determined. (EX 106).
- 18 4. Ms. Badjie had previously received a letter from her mother that placed her in  
19 fear of returning to the Gambia. In the letter, her mother wanted to have Ms.  
20 Badjie's daughter subjected to female genital mutilation ("FGM"). (EX 107).
- 21 5. Respondent met with Ms. Badjie in January 2008. (TR 52).
- 22 6. Ms. Badjie had been subjected to FGM herself and did not want this for her  
23 daughter. Respondent advised her that this fear for her daughter, along with her  
24 own past persecution, gave Ms. Badjie a basis for seeking asylum. (TR 59-62,  
311).
- 25 7. Respondent filed his Notice of Appearance in Ms. Badjie's case on April 20,  
2009. (EX 109).
8. On November 12, 2009, Respondent filed an Application for Asylum on behalf  
of Ms. Badjie. (TR 68; EX 110).

- 1 9. On March 8, 2011, a Merits or Individual Hearing on Ms. Badjie's asylum case  
2 took place in the Immigration Court in Bloomington, Minnesota. Respondent  
3 represented Ms. Badjie at the hearing. Evidence was presented and testimony  
4 was taken. (TR 69).
- 5 10. On the same day, Immigration Judge Susan Castro delivered her oral decision  
6 denying Ms. Badjie's request for asylum and denying her request for voluntary  
7 departure. (TR 70; EX 115).
- 8 11. Respondent was present when the judge delivered her decision from the bench,  
9 including her reasoning, at the March 8, 2011 hearing and therefore knew the  
10 result of her decision and the reasons therefor. (TR 58).
- 11 12. Respondent received a copy of the Order of the Immigration Judge on the day of  
12 the hearing. The proof of service reflects that a copy was served on Respondent  
13 on March 8, 2011. (EX 116).
- 14 13. Following the hearing, Respondent and Ms. Badjie discussed the options  
15 available to her. Ms. Badjie decided to appeal the judge's decision. She hired  
16 Respondent to handle the appeal and agreed to pay him an additional \$1,500.  
17 (TR 71, 319).
- 18 14. On March 25, 2011, Respondent filed a Notice of Appeal, EOIR Form 26 and  
19 Notice of Appearance with the BIA. (EX 116).
- 20 15. In item #8 of the Notice of Appeal, Respondent indicated that he intended to file  
21 a separate brief. Immediately below that statement, the following admonition  
22 appeared on the form:
- 23 WARNING: If you mark "Yes" in item #8, you will be expected to file  
24 a written brief or statement after you receive a briefing schedule from  
25 the Board. The Board may summarily dismiss your appeal if you do not  
file a brief or statement within the time set in the briefing schedule. (EX  
116).
- 26 16. Respondent was aware of the warning when he signed the Notice of Appeal.  
(TR 73).
- 27 17. On April 6, 2011, the BIA sent Respondent an acknowledgement that it had  
received the appeal. The receipt contained the following language:
- If you have any questions about how to file something at the Board, you  
should review the Board's Practice Manual at www.justice.gov/coir.  
(EX 117).

- 1 18. Respondent had access to the Practice Manual and was familiar with it. (TR  
2 75).
- 3 19. The Practice Manual describes procedures, requirements, and recommendations  
4 for practice before the BIA. (EX 105, pg. 1).
- 5 20. The Practice Manual provides that the BIA date stamps all filings and strongly  
6 recommends that parties file as far in advance of the deadline as possible. (EX  
7 105, pg. 31; TR 75).
- 8 21. The Practice Manual also states:  
9 If a brief is untimely, it is rejected and returned to the party with an  
10 explanation for the rejection. Parties wishing to refile an untimely brief  
11 must file a motion asking the Board to accept the untimely brief and  
12 include documentary evidence to support their motion, including such  
13 evidence as affidavits and declarations under penalty of perjury. (EX  
14 105, Ch. 3.1(c)(iii), pg. 32).
- 15 22. The BIA Practice Manual emphasizes the importance of timely filing of briefs.  
16 For example, "Briefs must arrive at the Board by the dates set in the briefing  
17 schedule," (EX 105, pg. 46, Sec. 4.2(e)). "Briefs must be timely." (EX 105, pg.  
18 53, Sec. 4.6(a)). In non-detained cases, the appealing party has 21 calendar days  
19 to file their brief. If a brief is untimely, it is rejected. The Board may reject a  
20 brief as untimely at any time prior to the final adjudication of the appeal. (EX  
21 105, pg. 60, Sec 4.7(a)(i) and (b)).
- 22 23. On May 26, 2011, the BIA sent Respondent a "Notice-Briefing Schedule." The  
23 brief in Ms. Badjie's case was due on June 16, 2011. The briefing schedule  
24 contained a warning that the brief must be **RECEIVED** at the Board on or  
25 before that date. [emphasis in original]. There was also a warning that if the  
brief is not filed within the time set for filing in the briefing schedule, the appeal  
may be summarily dismissed. The Notice also stated that extensions of briefing  
time will only be granted for good cause, that it is the policy of the Board that  
no additional extensions will be granted. (EX 118).
- 24 24. The briefing schedule also refers to 8 CFR § 1003.1(d)(2)(i)(E), which provides  
25 that an appeal may be summarily dismissed if a brief is not filed within the time  
set for filing. (EX 103).
- 24 25. Respondent knew of the BIA's requirements that briefs be timely filed. (TR 76-  
82).

- 1 26. The May 26, 2011, Notice also stated that a copy of the decision of the  
2 Immigration Judge was enclosed, as well as a copy of the transcript of the  
3 testimony of record. (EX 118).  
4  
5 27. Respondent testified that a copy of the decision of the Immigration Judge was  
6 not enclosed and that the signed oral decision was sent to him on June 9, 2011.  
7 (TR 85; EX 119).  
8  
9 28. Elizabeth Holmes, an expert in the area of immigration law and Ms. Badjie's  
10 current lawyer, testified that although it could happen, she never had an  
11 experience where the decision of the judge was not enclosed with the Notice -  
12 Briefing Schedule. (TR 274-275).  
13  
14 29. Respondent's testimony on this issue appeared to reflect his belief that this  
15 delay was a justification for filing his brief late. Respondent's position on this  
16 issue is unwavering.  
17  
18 30. Respondent filed a Motion for Extension of Time to File Appeal Brief one day  
19 before the brief was due. The Motion was received by the BIA on June 15,  
20 2011. (EX 120).  
21  
22 31. Respondent did not attach any affidavits, declarations, or other evidence to the  
23 motion, as required by the BIA. (TR 350).  
24  
25 32. Ms. Holmes, the expert in immigration law, testified that filing a request one  
day before the original deadline was risky. (TR 286).  
33. Nonetheless, on June 15, 2011, the BIA granted the extension and set July 7,  
2011, as the date the brief must be received at the BIA. (EX 121).  
34. The appellant's brief was finally received by the BIA on July 8, 2011. The brief  
was not timely filed and Respondent knew that it had been filed late. (TR 351;  
EX 122).  
35. Respondent testified that by June 10, 2011, about 29 days before the brief was  
due, he had everything he needed to prepare and file the brief. (TR 360).  
36. Respondent's explanation at the hearing for filing the brief late was that he did  
not have enough time. Respondent's explanation was confusing and not  
credible. (TR 361).  
37. Respondent filed a Motion for Permission to Accept Late Appeal Brief. (EX  
123).

- 1           38.    The motion did not include affidavits or declarations as required by the BIA.  
2                   Respondent testified that he knew that the Practice Manual stated that  
                  statements made in motions are not evidence. (TR 372).
- 3           39.    In that motion, Respondent alleged that on July 6, 2011, the day before the brief  
4                   was due, he had been "held up" in a bond hearing at the Immigration Court at  
                  the Detention Center in Tacoma, and he had been further delayed because of  
5                   heavy traffic in Tacoma. He stated that he had attempted to send the brief by  
                  courier, but the "mails to the East Coast leave early in the afternoon." (EX  
6                   123).
- 7           40.    The Immigration Judge Detainee Calendar shows that the hearing for  
8                   Respondent's client, David Njenga, was scheduled to begin at 1:00 PM on July  
                  6, 2011. (EX 132).
- 9           41.    The Detention Center security procedures require visitors to the Detention  
10                   Center, including attorneys, to sign in and be issued a pass and to sign out when  
                  finished. (TR 366).
- 11           42.    The Attorney Visitation Log for July 6, 2011, shows that Respondent, who was  
12                   assigned Pass #21, signed in on July 6, 2011, at 12:46 PM and signed out at  
                  1:29 PM. Respondent spent a total of 43 minutes at the Detention Center. (EX  
13                   132).
- 14           43.    Respondent had sufficient time to file the brief on or before July 6, 2011. His  
15                   statement that he was delayed at the Detention Center is not credible and does  
16                   not justify filing the brief late.
- 17           44.    Respondent testified that he sent a copy of the brief and the motion to Ms.  
18                   Badjie without any explanation. He testified that this was his ordinary practice  
                  and if Ms. Badjie had any questions, she would call him. (TR 373-374).
- 19           45.    On August 23, 2012, Respondent was suspended from the practice of law for six  
20                   months by the Washington State Supreme Court. Respondent sent a letter to  
                  Ms. Badjie notifying her of his suspension and advising her to seek new  
21                   counsel. (EX 303; TR 320).
- 22           46.    Ms. Badjie consulted with lawyer Elizabeth Holmes in August 2012. Ms.  
23                   Badjie brought with her all of the documents she had received from Respondent,  
                  which she believed was her complete file. (TR 322).
- 24           47.    Ms. Holmes telephoned the BIA's automated information system to obtain  
25                   information about Ms. Badjie's case. Based on the information she obtained  
                  from the information system and the documents Ms. Badjie brought to her, Ms.  
                  Holmes concluded that the documents Ms. Badjie had provided her were not

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND HEARING  
OFFICER'S RECOMMENDATIONS - 7

- 1 complete. She also concluded that it appeared the brief had been filed late. (TR  
2 263-266).
- 3 48. The Motion for Permission to Accept Late Filed Brief was not among the  
4 documents Ms. Badjie brought to Ms. Holmes. (TR 263-266).
- 5 49. Ms. Holmes advised Ms. Badjie to contact Respondent and request her complete  
6 file, which she did. Respondent then provided the complete file to Ms. Badjie.  
7 The complete file contained the Motion for Permission to Accept Late Filed  
8 Brief. (TR 263-266; EX 127; TR 277).
- 9 50. Ms. Holmes informed Ms. Badjie that the brief had been filed late. This was the  
10 first time Ms. Badjie knew that the brief had been filed late. (TR 277, 323).
- 11 51. Ms. Badjie was concerned and worried that because the brief had been filed late,  
12 she would be deported to the Gambia. (TR 324).
- 13 52. Ms. Holmes filed a motion to remand the case back to the Immigration Court.  
14 One of the bases for the motion was the ineffective assistance of counsel based  
15 on the late filing of the brief and the fact that Respondent did not tell Ms. Badjie  
16 that the brief had been filed late. (EX 129).
- 17 53. As part of the motion to remand, Ms. Badjie filed an Affidavit of Ineffective  
18 Assistance of Counsel, stating that Mr. Conteh did not tell her that the brief had  
19 been filed late. (EX 128).
- 20 54. The BIA thereafter remanded the case. The case is now pending before the  
21 Immigration Court. (TR 278; EX 130).
- 22 55. Had the Motion to Remand not been filed, the BIA could have rejected  
23 the late filed brief and dismissed s. Badjie's appeal. (TR 278).

24 C. Findings of Fact Regarding Counts 3-5 of the Bar Complaint.

- 25 1. On August 14, 2009, Mr. John Muthaka was injured in an automobile accident.  
His vehicle was totaled. His vehicle was rear-ended while stopped, so he had no  
fault in the accident. (TR 96, 98, 186).
2. Mr. Muthaka only carried liability insurance which did not cover his bodily  
injury or property damage. He did not have medical insurance. (TR 99).
3. After the accident, Mr. Muthaka consulted with Respondent about the accident  
because Respondent was already representing him on an immigration matter.  
(TR 205). Mr. Muthaka did not know how to proceed because he had never  
been involved in an accident before. (TR 100).

- 1 4. Respondent told Mr. Muthaka to get a copy of the police report, which he did.  
2 (TR 100).
- 3 5. The police report, which is dated October 30, 2009, clearly shows that the date  
4 of the collision was August 14, 2009. (EX 200).
- 5 6. Respondent admitted that Mr. Muthaka gave a copy of the police report to him.  
6 (TR 101, 127).
- 7 7. Respondent acknowledged that the police report reflects that the date of the  
8 collision was August 14, 2009. (TR 208).
- 9 8. Mr. Muthaka received a letter dated February 17, 2010, from Allstate Insurance,  
10 the insurer of the at-fault driver. The letter clearly also shows that the date of  
11 the loss was August 14, 2009. (EX 202).
- 12 9. Respondent admitted that Mr. Muthaka gave the letter to him. Respondent told  
13 Mr. Muthaka to continue with his medical treatment and he would handle the  
14 case for him. Mr. Muthaka thereby understood that Respondent was  
15 representing him in the matter. (TR 102, 209).
- 16 10. Respondent failed to enter into a written fee agreement with Mr. Muthaka, nor  
17 did he explain the basis or rate of his fee to him. Respondent told Mr. Muthaka  
18 that he would work with the insurance company and then he would tell him  
19 what his fee was when they received the insurance money. Respondent never  
20 sent Mr. Muthaka a billing statement for his services. (TR 102-103, 135-137).
- 21 11. Respondent initially testified at hearing that he told Mr. Muthaka that he would  
22 charge him on an hourly basis and when the case settled, they would work out  
23 "what payments will be done." (TR 214, 216).
- 24 12. Respondent later testified that his fee arrangement with Mr. Muthaka was a flat  
25 fee of \$3,000 plus an hourly component. (TR 223-224).
- 13. Respondent was deposed on August 16, 2013, as part of these disciplinary  
proceedings. At his deposition, Respondent testified that he and Mr. Muthaka  
did not have an exact fee agreement. He also testified that he told Mr. Muthaka  
that attorneys may charge up to 33 percent of the recovery and that 33 percent  
was the normal charge. Respondent also testified that it was his intention to  
charge some percentage of the recovery, but he and Mr. Muthaka had not agreed  
on the exact amount. Respondent further stated that if Mr. Muthaka did not  
recover anything, he would not have to pay Respondent anything. (TR 218-220;  
EX 406, pg. 19-22).

- 1 14. After the transcript of the deposition, Respondent made numerous corrections to  
2 his deposition testimony. However, he did not correct his deposition testimony  
3 on this point. (TR 220-221; EX 407).
- 4 15. In his response to ODC's analysis letter, Respondent stated that he did not have  
5 a contingent fee agreement with Mr. Muthaka. Respondent admitted that this  
6 statement contradicted his deposition testimony. (TR 2212; EX 403).
- 7 16. Respondent also testified that the fee arrangement was a flat fee of \$3,000 plus  
8 an hourly component. (TR 223).
- 9 17. Respondent's testimony about the fee arrangement is contradictory and  
10 inconsistent. Respondent's testimony about the fee arrangement is ultimately  
11 not credible.
- 12 18. Mr. Muthaka testified at hearing that Respondent did not discuss his fee  
13 arrangement with him except to tell him to wait until the case settled and then  
14 Respondent would let him know what the fees were. (TR 125).
- 15 19. Mr. Muthaka consulted with Respondent several times concerning his case.  
16 Respondent told him to continue seeing his chiropractor. (TR 104).
- 17 20. Mr. Muthaka testified that Respondent did not discuss settling the case with  
18 him, did not advise him that a lawsuit might have to be filed, and did not advise  
19 him that the statute of limitations was three years. (TR 104).
- 20 21. Respondent testified that he told Mr. Muthaka that generally they have a three-  
21 year period to come up with the claim and it is important he get well before the  
22 case was settled. Respondent's testimony on this point is not credible. (TR  
23 211).
- 24 22. Mr. Muthaka provided his medical bills to Respondent. (TR 109).
- 25 23. Victoria Schubert, Allstate Insurance claims adjuster, testified that Allstate  
maintains a log, the Allstate Claim History Report, that chronicles the actions  
taken on a case. (TR 145; EX 206).
- 24 24. The Report shows that on February 17, 2010, Allstate sent a letter to Mr.  
Muthaka enclosing forms for him to sign and return to Allstate. (EX 202).
- 25 25. On April 20, 2010, Respondent returned the forms by fax to Heather Blau, one  
of the Allstate employees handling Mr. Muthaka's case. He also faxed Ms.  
Blau his letter of representation. One of the forms Respondent faxed to Ms.  
Blau was an "Authorization to Disclose Wage/Employer Information" that Mr.

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Muthaka had filled out. The second page of the Authorization showed the date of loss was August 14, 2009. (EX 204).

- 26. On July 13, 2010, Cindy Kinser sent Respondent an affidavit of theft to be filled out and returned. The affidavit would enable Allstate to establish the value of Mr. Muthaka's vehicle so they could make a settlement offer on the property damage aspect of the case. (TR 181).
- 27. Respondent did not return the affidavit to Allstate. On June 1, 2012, almost two years later, Ms. Kinser sent another affidavit to Respondent for Mr. Muthaka to complete. (EX 211).
- 28. On July 10, 2012, Allstate telephoned Respondent to ask questions about the vehicle to assist them in valuing Mr. Muthaka's car. Respondent did not return the call or provide the requested information. (TR 182; EX 206).
- 29. Allstate employees repeatedly telephoned Respondent and left messages with Respondent's staff or voice mail messages for Respondent to call them. Respondent did not return the calls. (EX 206).
- 30. On December 10, 2010, Respondent told Allstate employee Cindy Kinser that Mr. Muthaka was done treating and he would have a demand to them in 30 days. Ms. Kinser did not receive a demand and followed up on March 1, 2011, with a telephone message asking for a status update. Respondent did not get back to Ms. Kinser. (EX 206).
- 31. On April 22, 2011, Ms. Kinser followed up with a letter requesting an update. Ms. Kinser noted in the log that she had received no response to her prior attempts to reach Respondent. (EX 206, 207).
- 32. Ms. Kinser's December 8, 2011, entry in the Allstate log reflects her frustration in dealing with Respondent. She stated that she had been told for a year a demand is coming and that she either gets voicemail or if she sends a letter she gets no response. Ms. Kinser telephoned Respondent again and left a voice mail message. (EX 206).
- 33. On May 31, 2012, Ms. Kinser telephoned Respondent's office and spoke to Kingston. She told Kingston that a lawsuit had been filed by the second vehicle involved in the accident. (EX 206).
- 34. The claim report also shows that Allstate valued Mr. Muthaka's vehicle at \$2,427.81. (EX 206).

- 1 35. Respondent testified that the entries in the Allstate log were accurate with the  
2 exception of the May 31, 2012, entry concerning the lawsuit having been filed.  
(TR 227-228).
- 3 36. Allstate repeatedly attempted to get information from Respondent that would  
4 enable them to make a settlement offer. Respondent ignored their requests.  
5 Although Respondent told Allstate that he would assemble a demand, he never  
did. (TR 230).
- 6 37. Although Allstate sent Respondent a number of letters regarding Mr. Muthaka's  
7 case, Respondent did not recall seeing them, even though they were mailed to  
his post office address. (TR 234).
- 8 38. Respondent admitted that he had not obtained Mr. Muthaka's medical records.  
9 (TR 231-233).
- 10 39. Respondent never provided Allstate with medical records or chart notes that  
11 would substantiate Mr. Muthaka's' bodily injuries. (TR 153, 166).
- 12 40. Ms. Schubert testified that Respondent did not provide them with anything  
13 relating to the amount of Mr. Muthaka's property loss. (TR 153).
- 14 41. Ms. Schubert also testified that there was no question that Allstate's insured was  
15 solely liable for the accident. She also testified that if Respondent had provided  
16 medical bills and information about Mr. Muthaka's property damage prior to the  
statute of limitations running, Allstate would have evaluated the case and paid  
Mr. Muthaka's reasonable and necessary accident related medical bills and his  
property loss. (TR 166).
- 17 42. Ms. Schubert also testified that they would not pay Mr. Muthaka's' medical  
18 bills or property damage claim after the statute had run. (TR 167).
- 19 43. Respondent did not inform Mr. Muthaka that Allstate had contacted him and he  
20 told Allstate he would assemble a demand. Respondent did not tell Mr.  
Muthaka that he had not submitted a demand to Allstate. (TR 109).
- 21 44. Respondent did not consult with Mr. Muthaka about the value of his case, the  
22 value of his vehicle, or a possible settlement amount. (TR 111).
- 23 45. Respondent took no action to preserve Mr. Muthaka's claims. (TR 238).
- 24 46. In late 2012 or early 2013, Mr. Muthaka's chiropractor, Dr. Winger, told him  
25 that his case was about "to expire because he has been with me a long time."  
Mr. Muthaka relayed this information to Respondent. Respondent told him not

- 1 to worry, that he was taking care of it, and he has a similar case and knows how  
2 it works. (TR 105-106).
- 3 47. Respondent testified that he knew the statute of limitation was three years.  
4 However, he did not advise Mr. Muthaka that the statute of limitation on his  
5 case would run on August 14, 2012. (TR 240-242).
- 6 48. Respondent testified that he mistook the date of his Notice of Appearance as the  
7 date of the accident and that he thought the statute would run in April 2013.  
8 (TR 27).
- 9 49. Even giving credence to this explanation, Respondent admitted he did not  
10 advise Mr. Muthaka that, by his own calculation, the statute of limitations  
11 would run in April 2013. (TR 238).
- 12 50. In his May 10, 2013, response to the grievance filed by Mr. Muthaka,  
13 Respondent explained that he was not certain that Mr. Muthaka's claim was  
14 barred even though he knew it was outside the August 2012 date, because there  
15 were other actions and that joinder was possible. He testified that he did legal  
16 research on this issue by searching Yahoo. (TR 247-248).
- 17 51. Respondent sent Mr. Muthaka a letter informing Mr. Muthaka that he had been  
18 suspended from the practice of law on August 23, 2012, for six months and that  
19 Mr. Muthaka needed to find a another lawyer. (TR 111).
- 20 52. The letter did not advise Mr. Muthaka that the statute of limitations had run on  
21 his claim. (TR 237).
- 22 53. Mr. Muthaka hired lawyer Cheryl Farrish to represent him. Ms. Farrish advised  
23 Mr. Muthaka to get a copy of his client file. (EX 212).
- 24 54. Ms. Farrish spoke with Respondent on September 7, 2012. Respondent told her  
25 that there was still time under the statute and it did not run in the next 30 days.  
Ms. Farrish confirmed this information in a letter dated September 13, 2012.  
(TR 188; EX 213).
55. Ms. Farrish received client files from both Mr. Muthaka and Respondent. Ms.  
Farrish observed that although Mr. Muthaka had been done treating for ten  
months, there were no medical records from the chiropractor, only incomplete  
records from Mr. Muthaka's physician and incomplete records from  
Harborview. The files did not contain any documentation of the property  
damage and no witness statements. There was no demand in the file. There  
were only three or four pieces of paper in the file. Ms. Farrish reviewed the  
accident report and discovered that the statute of limitations had run on August  
14, 2012. (TR 190).

- 1 56. Ms. Farrish conducted research on the case and discovered that a subrogation  
2 lawsuit had been filed by USAA, the insurer of the other vehicle involved in the  
3 accident and that the at-fault driver, in his answer, admitted that his negligence  
4 was the sole and proximate cause of the accident. (EX 217 - 219).
- 5 57. The effect of this admission meant that if Respondent had filed a lawsuit on  
6 time, Allstate would have paid Mr. Muthaka some sum of money. (TR 192).
- 7 58. The subrogation lawsuit was settled, and Allstate paid the entire \$10,000  
8 property damage policy limit to the other driver. (TR 193).
- 9 59. Ms. Farrish concluded that Mr. Muthaka's claim was time barred. (TR 194).
- 10 60. Mr. Muthaka's unpaid medical bills total \$11,324.41. Many of the bills have  
11 been turned over to collection agencies. Respondent did not incur or advance  
12 any costs on the case. (TR 196, 245; EX 216).
- 13 61. Ms. Farrish, who was qualified as an expert witness in the area of personal  
14 injury, opined that Respondent's statements in his response to the grievance  
15 filed with ODC constituted a "blatant misunderstanding of the law as it pertains  
16 to personal injury cases." (TR 198; EX 400).
- 17 62. Ms. Farrish also reviewed Respondent's deposition testimony taken in these  
18 proceedings on August 16, 2013. Respondent's testimony that an insurance  
19 policy enlarges the time to file a lawsuit is something she had never seen and is  
20 not something an insurance company would do for an adverse party. (TR 199;  
21 EX 406, pg. 33-34).
- 22 63. Ms. Farrish testified that Respondent's opinion stated in his deposition  
23 testimony that other lawsuits would extend the statute of limitations for Mr.  
24 Muthaka was also not a correct statement of the law. (TR 200; EX 406).
- 25 64. Ms. Farrish contacted Allstate and was told they would not pay a claim that was  
time barred. (TR 200).
- 65. Respondent received a reprimand on October 14, 2009, for violating RPC 8.4(c)  
by misrepresenting his client's residential address.
- 66. On August 23, 2012, Respondent was suspended from the practice of law for six  
months by the Washington Supreme Court for violating RPC 3.3, RPC 8.4(c),  
and RPC 8.1(d). (EX 300).
- 67. Respondent was suspended from the practice before the Board of Immigration  
Appeals on September 24, 2012. (EX 308).

- 1           68.    Respondent was suspended from the U.S. Court of Appeals for the Ninth Circuit  
2           on October 2, 2012. (EX 309).
- 3           69.    Respondent was suspended from the U.S. District Court Western District of  
4           Washington on October 16, 2012. (EX 310).
- 5           70.    Respondent was suspended for practicing before the Board of Immigration  
6           Courts and the Department of Homeland Security on October 22, 2012. (EX  
7           311).

8           **IV. SUMMARY OF CONCLUSIONS OF LAW ON COUNTS OF THE COMPLAINT**

9           Based on the foregoing Findings of Fact found to have been established by a clear  
10          preponderance of the evidence, the Hearing Officer makes the following Conclusions of Law:

11          **COUNT 1:** By failing to file his appeal brief on time, and by failing to file a Motion to  
12          Accept Late-Filed Brief that complied with the BIA's rules, Respondent's conduct violated  
13          RPC 1.1 and RPC 1.3.

14          **COUNT 2:** By failing to inform Ms. Badjie that he had filed his appeal brief after it  
15          was due, Respondent's conduct violated RPC 1.4.

16          **COUNT 3:** By failing to communicate the basis or rate of his fee to Mr. Muthaka, and  
17          by having a contingent fee agreement that was not in writing and did not communicate the  
18          information required under RPC 1.5(c)(2), Respondent's conduct violated RPC 1.5(b) and RPC  
19          1.5(c).

20          **COUNT 4:** By failing to make reasonably diligent efforts to settle Mr. Muthaka's  
21          claim, by failing to protect Mr. Muthaka's interests by filing suit before the statute of  
22          limitations expired, and by failing to ascertain the significance of allowing the statute of  
23          limitations to expire, Respondent's conduct violated RPC 1.1 and RPC 1.3.

24          **COUNT 5:** By failing to keep Mr. Muthaka reasonably informed about the status of  
25          his claim, by failing to inform him when the statute of limitations would expire, and by failing

1 to inform him that the statute of limitations had expired, Respondent's conduct violated RPC  
2 1.4.

### 3 V. PRESUMPTIVE SANCTIONS

4 A presumptive sanction must be determined for each ethical violation.<sup>1</sup> Applying the  
5 Presumptive Sanctions sections as the Hearing Officer is required to do under Washington law  
6 set forth in the American Bar Association ("ABA") Standards for Imposing Lawyer Sanctions  
7 ("ABA Standards") is a two-step process. The first step is to determine the presumptive  
8 sanction, considering the ethical duty violated, the lawyer's mental state, and the extent of the  
9 harm caused by the misconduct.<sup>2</sup> The second step is to consider whether aggravating or  
10 mitigating factors should alter the presumptive sanction.<sup>3</sup>

#### 11 ABA Standard 4.0 Violations of Duties Owed to Clients

##### 12 **ABA Standard 4.4 Lack of Diligence.**

13 Absent aggravating or mitigating circumstances, upon application of the factors  
14 set out in Standard 3.0, the following sanctions are generally appropriate in  
15 cases involving a failure to act with reasonable diligence and promptness in  
16 representing a client:

##### 16 **4.41 Disbarment is generally appropriate when:**

17 (a) a lawyer abandons the practice and causes serious or  
18 potentially serious injury to a client; or

19 (b) a lawyer knowingly fails to perform services for a client  
20 and causes serious or potentially serious injury to a client; or

21 (c) a lawyer engages in a pattern of neglect with respect to  
22 client matters and causes serious or potentially serious injury  
23 to a client.

##### 22 **4.42 Suspension is generally appropriate when:**

23 (a) a lawyer knowingly fails to perform services for a  
24 client and causes injury or potential injury to a client, or

25 <sup>1</sup> *In re Anshell*, 149 Wn.2d 484, 69 P.3d 844, 852 (2003).

<sup>2</sup> ABA Standard 3; *In re Witt*, 149 Wn.2d 707, 717, 72 P.3d 173 (2003).

<sup>3</sup> *In re Johnson*, 118 Wn.2d 693, 701, 826 P.2d 186 (1992).

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(b) a lawyer engages in a pattern of neglect and causes injury or potential injury to a client.

4.43 Reprimand is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client.

4.44 Admonition is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes little or no actual or potential injury to a client.

**ABA Standard 4.5 Lack of Competence.**

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving failure to provide competent representation to a client:

4.51 Disbarment is generally appropriate when a lawyer's course of conduct demonstrates that the lawyer does not understand the most fundamental legal doctrines or procedures, and the lawyer's conduct causes injury or potential injury to a client.

4.52 Suspension is generally appropriate when a lawyer engages in an area of practice in which the lawyer knows he or she is not competent, and causes injury or potential injury to a client.

4.53 Reprimand is generally appropriate when a lawyer:  
(a) demonstrates failure to understand relevant legal doctrines or procedures and causes injury or potential injury to a client; or  
(b) is negligent in determining whether he or she is competent to handle a legal matter and causes injury or potential injury to a client.

4.54 Admonition is generally appropriate when a lawyer engages in an isolated instance of negligence in determining whether he or she is competent to handle a legal matter and causes little or no actual or potential injury to a client

**ABA Standard 7.0 Violations of Duties Owed As a Professional**

**ABA Standard 7.1** Disbarment is generally appropriate when a lawyer knowingly engages in conduct that is a

1 violation of a duty owed as a professional with the intent to  
2 obtain a benefit for the lawyer or another, and causes  
serious or potentially serious injury to a client, the public or  
the legal system.

3  
4 **ABA Standard 7.2** Suspension is generally  
appropriate when a lawyer knowingly engages in  
conduct that is a violation of a duty owed as a  
5 professional and causes injury or potential injury to a  
client, the public, or the legal system.  
6

7 **ABA Standard 7.3** Reprimand is generally appropriate  
when a lawyer negligently engages in conduct that is a  
violation of a duty owed as a professional and causes injury  
8 or potential injury to a client, the public, or the legal  
system.  
9

10 **ABA Standard 7.4** Admonition is generally appropriate  
when a lawyer engages in an isolated instance of  
negligence that is a violation of a duty owed as a  
11 professional, and causes little or no actual or potential  
injury to a client, the public, or the legal system.  
12

13 Having carefully weighed applicable presumptive sanctions and having considered  
14 aggravating and mitigating circumstances set forth in Section 9.22, the Hearing Officer finds  
15 the following aggravating factors present:

- 16 (a) prior disciplinary offenses (Respondent received a reprimand in 2009 for  
violating RPC 8.4(c), and he was suspended for six months in 2012 for violating  
17 RPC 3.3, RPC 8.4(c), and RPC 8.4(d));
- 18 (b) dishonest or selfish motive;
- (c) a pattern of misconduct;
- (d) multiple offenses;
- 19 (g) refusal to acknowledge wrongful nature of conduct;

20 No mitigating factors are applicable.  
21

22 Respondent acted knowingly in failing to diligently represent Ms. Badjie and Mr.  
23 Muthaka, resulting in injury to both Ms. Badjie and Mr. Muthaka. Mr. Muthaka has received  
24 no compensation for his bodily injuries or his property loss due to the running of the statute of  
25 limitations on his claims, and he has substantial medical bills that have been turned over to  
collection agencies. In Ms. Badjie's circumstance, there was injury to the legal system because

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND HEARING  
OFFICER'S RECOMMENDATIONS - 18

1 additional time and resources had to be expended on her case because Respondent filed her  
2 brief late. Ms. Badjie was injured because she suffered the anxiety of her case not proceeding  
3 as she thought it would and the emotional distress as a result of Respondent's actions. She also  
4 suffered potential injury in that her case might have been dismissed and ultimately possible  
5 deportation had she not obtained new counsel who filed a Motion to Remand. The  
6 presumptive sanction is suspension.

7 Respondent acted knowingly in failing to keep Mr. Muthaka reasonably informed about  
8 the status of his case, failing to inform him when the statute of limitations would run, and  
9 failing to inform him that the statute of limitations had expired. Mr. Muthaka was injured  
10 because had Respondent informed him about when the statute of limitations ran, he could have  
11 taken steps to ensure that his claim was protected. Instead, he was deprived of that  
12 opportunity.

13 Respondent also acted knowingly in failing to inform Ms. Badjie that he had filed the  
14 brief in her case late. Similarly, Respondent knowingly did not send Ms. Badjie a copy of the  
15 Motion for Permission to Accept Late Filed Brief, which would have alerted her to the fact that  
16 he had filed the brief late. She suffered potential injury as a result. If Ms. Holmes had not  
17 investigated her case and discovered the untimely brief, Ms. Badjie's appeal might have been  
18 dismissed, and she would have been subject to being deported.

19 Respondent also acted knowingly in failing to competently represent Ms. Badjie and  
20 Mr. Muthaka. Respondent lacked an understanding of and appreciation for the necessity of  
21 timely filing Ms. Badjie's brief. He also clearly lacked a basic understanding of how to handle  
22 a personal injury case. Further, he demonstrated that he did not understand the importance of  
23 the statute of limitations. Ms. Badjie and the legal system were injured. Ms. Badjie has  
24 suffered emotional distress and the legal system has been burdened because court time has  
25 been expended in the remand of Ms. Badjie's case. Mr. Muthaka was injured in that he has

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND HEARING  
OFFICER'S RECOMMENDATIONS - 19

1 received no compensation for his injuries or property damage, even though Allstate would have  
2 compensated him potentially making him whole for his losses. The presumptive sanction is  
3 suspension.

4 Respondent acted knowingly in failing to communicate the basis or rate of his fee to  
5 Mr. Muthaka and by having a contingent fee agreement that was not in writing and did not  
6 communicate the information required by RPC 1.5(c)(2). Mr. Muthaka suffered potential  
7 injury. Had there been any monetary recovery on his case, it is unclear what fees would have  
8 been. This uncertainty constitutes injury. The presumptive sanction is suspension.

9 Based on this review of aggravating and mitigating factors, the Hearing Officer  
10 specifically finds, pursuant to the ABA Standards for Imposing Lawyer Sanctions, the  
11 following conclusions under the Presumptive Section Standards, which are again set out by  
12 individual count.

13 **COUNT 1:** After finding Respondent engaged in an area of practice knowing he was  
14 not competent by failing to file his appeal brief on time and failing to file a Motion to Accept  
15 Late Filed Brief which complied with the BIA's rules, in violation of RPC 1.1 and RPC 1.3.  
16 The Hearing Officer, after weighing appropriate aggravating and mitigating factors, finds the  
17 presumptive ABA Standards of 4.4 and 4.5 apply, and in applying the mitigating and  
18 aggravating factors, also finds there is no basis to depart from the presumptive standard of  
19 suspension.

20 **COUNT 2:** After finding the Respondent knowingly failed to inform Ms. Badjie that  
21 he had filed his appeal brief after it was due in violation of RPC 1.4, the Hearing Officer, after  
22 weighing appropriate aggravating and mitigating factors, finds the presumptive ABA Standard  
23 4.4 applies, and in applying the mitigating and aggravating factors, also finds there is no basis  
24 to depart from the presumptive standard of suspension.

25

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND HEARING  
OFFICER'S RECOMMENDATIONS - 20

1           **COUNT 3:** After finding the Respondent knowingly failed to communicate the basis  
2 or rate of his fee to Mr. Muthaka and had a contingent fee agreement that was not in writing  
3 and did not communicate the information required under RPC 1.5(c)(2) in violation of RPC  
4 1.5(b) and RPC 1.5(c), the Hearing Officer, after weighing appropriate aggravating and  
5 mitigating factors, finds the presumptive ABA Standard 7.0 applies, and in applying the  
6 mitigating and aggravating factors, also finds there is no basis to depart from the presumptive  
7 standard of suspension.

8           **COUNT 4:** After finding the Respondent knowingly failed to make reasonably diligent  
9 efforts to settle Mr. Muthaka's claim, failed to protect Mr. Muthaka's interests by filing suit  
10 before the statute of limitations expired, and failed to apprehend the significance of allowing  
11 the statute of limitations to expire in violation of RPC 1.1 and RPC 1.3, the Hearing Officer,  
12 after weighing appropriate aggravating and mitigating factors, finds the presumptive ABA  
13 Standards 4.4 and 4.5 apply, and in applying the mitigating and aggravating factors, also finds  
14 there is no basis to depart from the presumptive standard of suspension.

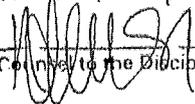
15           **COUNT 5:** Finally, after finding the Respondent knowingly failed to keep Mr.  
16 Muthaka reasonably informed about the status of his claim, failed to inform him when the  
17 statute of limitations would expire, and failed to inform him that the statute of limitations had  
18 expired in violation of RPC 1.4, the Hearing Officer, after weighing appropriate aggravating  
19 and mitigating factors, finds the presumptive ABA Standard 4.4 applies, and in applying the  
20 mitigating and aggravating factors, also finds there is no basis to depart from the presumptive  
21 standard of suspension.

1 VI. RECOMMENDATION SANCTION AND CONCLUSION, AND RESTITUTION

2 When multiple ethical violations are found, the ultimate sanction imposed should at  
3 least be consistent with the sanction for the most serious instance of misconduct.<sup>4</sup> Based on the,  
4 ABA Standards and the aggravating and mitigating factors evaluated at length above, the  
5 Hearing Officer recommends that Respondent Bakary Fansu Conteh be suspended for two  
6 years. Finally, I further recommend that restitution to grievant Mr. Muthaka be ordered in the  
7 amount of \$11,324.41 (which Respondent's own Closing Argument and Response to ODC's  
8 Proposed Findings, et al apparently accepts as "appropriate and fair here")<sup>5</sup>, reflecting Mr.  
9 Muthaka's unpaid medical bills and that future reinstatement of Respondent from suspension  
10 be conditioned on the payment of restitution noted here.

11 DATED this 20<sup>th</sup> day of April, 2015

12  
13  
14   
15 David W. Wiley, WSBA #08614  
16 Hearing Officer

17 CERTIFICATE OF SERVICE  
18 I certify that I caused a copy of the FOE, LOC & HO's Recommendation  
19 to be delivered to the Office of Disciplinary Counsel and to be mailed  
20 to Bakary Conteh Respondent's Counsel  
21 at PO BOX 1009 Seattle WA 98104 by Certified first class mail  
22 postage prepaid on the 20th day of April, 2015  
23   
24 Clerk/Counsel to the Disciplinary Board

24 <sup>4</sup> *In re the Matter of the Disciplinary Proceeding Against Richard A. Peterson*, 120 Wn.2d 833, 854 (1993); *In re*  
25 *the Matter of the Disciplinary Proceeding Against Alec M. Schwimmer*, 153 Wn.2d 752, 759, 108 P.3d 761  
(2005); *In re Disciplinary Proceeding Against Romero*, 152 Wn.2d 124, 135, 94 P.3d 939 (2004).

<sup>5</sup> Respondent's Closing Argument, and Response to ODC's Proposed Findings of Fact, Conclusions of Law and Hearing Officer's Recommendation at p. 7.

**Allison Sato**

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**From:** Gruber, Maggi <MGruber@williamskastner.com>  
**Sent:** Tuesday, April 21, 2015 5:15 PM  
**To:** Allison Sato  
**Cc:** Wiley, Dave  
**Subject:** FW: Proceeding No. 13#00112 | Bakary Fansu Conteh Lawyer Bar #35098 | Findings of Fact and Conclusions of Law and Hearing Officer's Recommendations  
**Attachments:** WKG-#5377518-v3-Conteh\_FOF\_COL\_Hearing\_Officer\_s\_recommendations.pdf

Document attached.

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**From:** Gruber, Maggi  
**Sent:** Tuesday, April 21, 2015 5:14 PM  
**To:** [allisons@wsba.org](mailto:allisons@wsba.org)  
**Cc:** Wiley, Dave  
**Subject:** Proceeding No. 13#00112 | Bakary Fansu Conteh Lawyer Bar #35098 | Findings of Fact and Conclusions of Law and Hearing Officer's Recommendations

Ms. Sato,

Please see attached Findings of Fact, conclusions of Law, and Hearing Officer's Recommendations signed by Hearing Officer David Wiley for filing today in the above-referenced proceeding. The original will be sent via US mail.

Thank you.

**Maggi Gruber**  
Williams Kastner | Legal Assistant to David Wiley  
601 Union Street, Suite 4100  
Seattle, WA 98101-2380  
P: 206.233.2972 | F: 206.628.6611  
[www.williamskastner.com](http://www.williamskastner.com)

SEATTLE PORTLAND

**FILED**  
MAY 26 2015  
DISCIPLINARY  
BOARD

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BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

Proceeding No. 13#00112

BAKARY FANSU CONTEH

Lawyer (Bar No. 35098).

ORDER GRANTING OFFICE OF  
DISCIPLINARY COUNSEL'S MOTION  
TO AMEND HEARING OFFICER'S  
FINDINGS OF FACT AND  
CONCLUSIONS OF LAW

THIS MATTER having come before the Hearing Officer on the Motion to Amend Hearing Officer's Findings of Fact and Conclusions of Law by the Office of Disciplinary Counsel ("ODC"), and the Hearing Officer having reviewed the arguments of counsel and files pertaining to this action, including the following:

1. Office of Disciplinary Counsel's Motion to Amend;
2. Respondent Bakary Fansu Contch's Response.

ODC did not file a Reply to Respondent's Response.

ACCORDINGLY, IT IS HEREBY ORDERED that:

1. There is sufficient evidence in the record to support ODC's proposed language that "Respondent's fee was contingent upon the outcome of the matter." On this first modification request, the Hearing Officer finds the additional sentence underscores the

ORDER GRANTING OFFICE OF DISCIPLINARY  
COUNSEL'S MOTION TO AMEND HEARING  
OFFICER'S FINDINGS OF FACT AND CONCLUSIONS  
OF LAW - 1

047

1 contingent fee nature of the Agreement and approves and grants the Motion with respect to  
2 revision to Finding of Fact #10.

3 2. There is also sufficient evidence in the record to support ODC's proposed  
4 language explaining why the "dishonest or selfish motive" aggravating factor applies.  
5 Regarding the second requested change to Section V, Page 18, while the Hearing Officer will  
6 grant that additional parenthetical addition, he finds its inclusion to be cumulative considering  
7 the explanation at page 19, lines 13-18 of the Findings of Fact and Conclusions of Law, the  
8 narrative there describes the Respondent's motive in failing to disclose the late filing of the  
9 Appeal Brief which motivation was self-interested in seeking to obfuscate that fact. While that  
10 modification, again, is being granted, the Hearing Officer does not believe that parenthetical  
11 finding is material in revising the original Findings and Conclusions entered by the  
12 undersigned in April, 2015.  
13

14  
15 DATED this 26<sup>th</sup> day of May, 2015  
16

17  
18   
19 David W. Wiley WSBA #08614  
Hearing Officer

20 CERTIFICATE OF SERVICE

21 I certify that I caused a copy of the ORDER GRANTING ODC'S Motion to Amend HOS  
22 to be delivered to the Office of Disciplinary Counsel and to be mailed POF  
23 to DANIEL BROWN Respondent/Respondent's Counsel  
24 at PO Box 4021 Seattle WA 98114 by Certified/next class mail  
25 postage prepaid on the 26<sup>th</sup> day of May, 2015

  
Clerk/Counsel to the Disciplinary Board

ORDER GRANTING OFFICE OF DISCIPLINARY  
COUNSEL'S MOTION TO AMEND HEARING  
OFFICER'S FINDINGS OF FACT AND CONCLUSIONS  
OF LAW - 2

**Allison Sato**

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**From:** Gruber, Maggi <MGruber@williamskastner.com>  
**Sent:** Tuesday, May 26, 2015 3:22 PM  
**To:** Allison Sato  
**Cc:** Wiley, Dave  
**Subject:** Proceeding No. 13#00112 | Bakary Fansu Conteh Lawyer Bar #35098 | Order Granting ODC Counsel's Motion to Amend Hearing Officer's Findings of Fact and Conclusions of Law  
**Attachments:** Conteh Order - Proceeding No. 13#00112.pdf

Ms. Sato,

Please see attached Order Granting ODC Counsel's Motion to Amend Hearing Officer's Findings of Fact and Conclusions of Law signed by Dave Wiley in the above-referenced proceeding. The original will follow today via US Mail.

Thank you.

**Maggi Gruber**

Williams Kastner | Legal Assistant to David Wiley  
601 Union Street, Suite 4100  
Seattle, WA 98101-2380  
P: 206.233.2972 | F: 206.628.6611  
[www.williamskastner.com](http://www.williamskastner.com)

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# APPENDIX B

JAN 22 2016

THE SUPREME COURT OF WASHINGTON

Ronald R. Carpenter  
Clerk

IN RE: )  
)  
)  
BAKARY F. CONTEH, )  
)  
)  
ATTORNEY AT LAW. )

BAR NO. 35098

Supreme Court No.  
201,448-8

ORDER

RECEIVED  
JAN 22 2016  
2/10

This matter came before the Court at its January 7, 2016, En Banc Conference. The Court considered the "ODC'S MOTION UNDER RAP 17.7 TO MODIFY CLERK'S RULING DENYING MOTION TO STRIKE CONTEH'S NOTICE OF APPEAL" and determined by a majority that the following order should be entered. Now, therefore, it is

ORDERED:

The Order Denying Sua Sponte Review and Adopting the Hearing Officer's Decision is an appealable order under ELC 12.3(a);

The ODC's Motion Under RAP 17.7 to Modify Clerk's Ruling Denying Motion to Strike Conteh's Notice of Appeal is denied in part;

ODC's alternative motion to modify asking that, if denied, the appeal be confined to the scope of the issue before the Disciplinary Board and the record before the Disciplinary Board for that review is granted;

Mr. Conteh's appeal of the Order Denying Sua Sponte Review and Adopting the Hearing Officer's Decision is limited to ONLY the record and scope of the Disciplinary Board's review as required by ELC 11.3(a);

The record of this review is therefore limited to the Hearing Officer's Findings of Fact, Conclusions of Law, and Recommendation;

The scope of the issue on appeal is limited to whether the Disciplinary Board erred by not finding that sua sponte review was required to "prevent substantial injustice or to correct a clear error," see ELC 11.3(d); and

725/634

Page 2  
ORDER  
201,448-8

The Clerk of the Court shall set a briefing schedule for the parties by separate correspondence.

DATED at Olympia, Washington this 22<sup>nd</sup> day of January, 2016.

For the Court

Madsen, C. J.  
CHIEF JUSTICE

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In re

**BAKARY F. CONTEH,**

Lawyer (Bar No. 35098)

Proceeding No. 13#00112

DECLARATION OF  
SERVICE BY MAIL

The undersigned Disciplinary Counsel of the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association declares that he caused a copy of the Answering Brief of the Office of Disciplinary Counsel of the Washington State Bar Association to be mailed by regular first class mail with postage prepaid on May 9, 2016 to:

Bakary Fansu Conteh  
PO Box 4189  
Everett, WA 98204-0019

Dated this 9th day of May, 2016.

The undersigned declares under penalty of perjury under the laws of the state of Washington that the foregoing declaration is true and correct.

5/9/16 Seattle WA  
Date and Place

Scott G. Busby  
Scott G. Busby, Bar No. 17522  
Senior Disciplinary Counsel  
1325 4th Avenue – Suite 600  
Seattle, WA 98101-2539  
(206) 733-5998

## OFFICE RECEPTIONIST, CLERK

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**To:** Scott Busby  
**Cc:** contehb@gmail.com; Chandler, Desiree R.  
**Subject:** RE: In re Conteh, Supreme Court No. 201,448-8

Received on 5-9-16

Supreme Court Clerk's Office

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

**From:** Scott Busby [mailto:ScottB@wsba.org]  
**Sent:** Monday, May 09, 2016 1:09 PM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Cc:** contehb@gmail.com; Chandler, Desiree R. <Desiree.Chandler@courts.wa.gov>  
**Subject:** In re Conteh, Supreme Court No. 201,448-8

Attached for filing are:

1. ANSWERING BRIEF OF THE OFFICE OF DISCIPLINARY COUNSEL OF THE WASHINGTON STATE BAR ASSOCIATION;  
and
2. DECLARATION OF SERVICE BY MAIL.

---

**Scott G. Busby, Senior Disciplinary Counsel**

**Office of Disciplinary Counsel**

**Washington State Bar Association**

☎ (206) 733-5998 | [scottb@wsba.org](mailto:scottb@wsba.org)

1325 Fourth Avenue, Suite 600 | Seattle, WA 98101-2539 | [www.wsba.org](http://www.wsba.org)

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