



**BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE**

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RELEASE OF INFORMATION
RE: GAIL OSTBY MATHES, BPR #004649
CONTACT: A. RUSSELL WILLIS
BOARD OF PROFESSIONAL RESPONSIBILITY
615-361-7500

October 14, 2019

SHELBY COUNTY LAWYER SUSPENDED

On October 14, 2019, the Supreme Court of Tennessee entered an order suspending Gail Ostby Mathes from the practice of law for a period of two (2) years, with six (6) months to be served as an active suspension, pursuant to Tennessee Supreme Court Rule 9, Section 12.2, and the remaining eighteen (18) months served on probation, pursuant to Tennessee Supreme Court Rule 9, Section 14.1; payment of restitution to three (3) former clients totaling \$3,700.00, and payment of costs to the Board of the disciplinary proceeding.

A Petition for Discipline consisting of seven (7) complaints was filed against Ms. Mathes by the Board. Ms. Mathes executed a conditional guilty plea acknowledging she failed to properly supervise a legal assistant in her office; accepted retainers but failed to provide diligent legal services to several clients; failed to reasonably communicate with several clients about the status of their cases; failed to refund unearned retainers after she was temporarily suspended; failed to provide documentation to the Board to substantiate her IOLTA account overdraft notice resulting from a legal assistant utilizing the wrong bank account; and failed to respond to the Board concerning a disciplinary complaint.

Ms. Mathes' conduct violated Rules of Professional Conduct 1.3 (Diligence); 1.4 (Communication); 1.5 (Fees); 1.15(d) (Safekeeping Property and Funds); 1.6(a) and (d) (Declining and Terminating Representation); 5.3(a), (b), and (c) (Responsibilities Regarding Nonlawyer Assistance); 8.1(a) and (b) (Bar Admission and Disciplinary Matters); and 8.4(a), (c), (d) and (g) (Misconduct).

Ms. Mathes must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 30.4 regarding the obligations and responsibilities of suspended attorneys and the procedure for reinstatement.

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED

10/14/2019

Clerk of the
Appellate Courts

IN RE: GAIL OSTBY MATHES, BPR #004649
An Attorney Licensed to Practice Law in Tennessee
(Shelby County)

No. M2019-01738-SC-BAR-BP
BOPR No. 2017-2793-9-KH

ORDER OF ENFORCEMENT

This matter is before the Court upon a Petition for Discipline filed against Gail Ostby Mathes on November 17, 2017; upon Ms. Mathes' Answer to the Petition for Discipline filed February 2, 2018; upon a Scheduling Order entered March 21, 2018 setting the final hearing for August 22, 2018; upon an Order to continue entered August 31, 2018; upon a Scheduling Order entered November 30, 2018 resetting the hearing for March 26, 2019; upon an Order entered April 8, 2019, continuing the trial; upon an Order entered April 30, 2019, setting the final hearing for May 20, 2019; upon an Order Resetting Final Hearing entered May 24, 2019; upon an executed Conditional Guilty Plea entered July 23, 2019; upon the Order Recommending Approval of Conditional Guilty Plea entered August 14, 2019; upon service of the Order Recommending Approval of Conditional Guilty Plea upon Ms. Mathes by the Executive Secretary of the Board on August 14, 2019; upon consideration and approval by the Board on September 13, 2019; and upon the entire record in this cause.

From all of which the Court approves and adopts the Hearing Panel's Order Recommending Approval of Conditional Guilty Plea as the Court's Order.

On June 26, 2012, Ms. Mathes was temporarily suspended by this Court, pursuant to Tenn. Sup. Ct. R. 9, § 4.3 (Case No. M2012-01307-SC-BPR-BP). By this Order, the temporary suspension shall be dissolved.

IT IS, THEREFORE, CONSIDERED, ORDERED, ADJUDGED AND DECREED BY THE COURT THAT:

(1) Gail Ostby Mathes is suspended from the practice of law for two (2) years with six (6) months to be served as an active suspension, pursuant to Tenn. Sup. Ct. R. 9, § 12.2, and the remaining eighteen (18) months to be served on probation, pursuant to Tenn. Sup. Ct. R. 9, § 14.1, subject to the following conditions of probation:

(a) Gail Ostby Mathes shall maintain compliance with the Tennessee Lawyers Assistance Program (TLAP) monitoring agreement and follow any and all recommendations of TLAP. Further, Ms. Mathes shall give TLAP permission to communicate with the Board regarding any monitoring agreement.

(b) Pursuant to Tenn. Sup. Ct. R. 9, § 12.7, Ms. Mathes shall make restitution to the following:

Nadiyah McMurray in the amount of \$1,200.00.

Rosemary May in the amount of \$1,000.00.

Mary Ringold in the amount of \$1,500.00.

To the extent restitution is paid by the Tennessee Lawyer's Fund for Client Protection ("TLFCP"), Ms. Mathes shall reimburse TLFCP for said amount and shall remain obligated to the individuals listed above for any unpaid restitution.

(c) Ms. Mathes, at her cost, if any, shall engage the services of a Practice Monitor who shall be selected and approved in accordance with Tenn. Sup. Ct. R. 9, § 12.9(c). The Practice Monitor shall meet with Ms. Mathes monthly and assess Ms. Mathes' case load, case management, timeliness of performing tasks, adequacy of communication with clients and accounting procedures. The Practice Monitor shall provide a monthly written report of Ms. Mathes' progress to Disciplinary Counsel.

(d) During the period of suspension and probation, Ms. Mathes shall incur no new complaints of misconduct that relate to conduct occurring during the period of suspension and probation and which results in the recommendation by the Board that discipline be imposed.

(2) In the event Ms. Mathes fails to meet any condition of probation, the probation may be revoked pursuant to Tenn. Sup. Ct. R. 9, § 14.2.

(3) Reinstatement of Ms. Mathes to the practice of law is conditioned upon her having met all CLE requirements; remitted all outstanding registration fees and outstanding professional privilege taxes, including those due from the date of this suspension until the date of reinstatement; and have remitted all court costs and Board costs in this matter in accordance with the payment plan set forth in paragraph four.

(4) Pursuant to Tenn. Sup. Ct. R. 9, § 31.3(d), Ms. Mathes shall pay to the Board of Professional Responsibility the costs and expenses of this matter in the amount of \$2,347.90 as follows:

- a. During the period of suspension and sixty (60) days following her reinstatement, Ms. Mathes shall pay to the Board \$100.00 per month; and
- b. Sixty (60) days following her reinstatement, Ms. Mathes shall pay to the Board \$300.00 per month.

(5) Ms. Mathes shall pay to the Clerk of this Court the costs incurred herein, within ninety (90) days of the entry of this Order for which execution may issue if necessary.

(6) Ms. Mathes shall comply in all aspects with Tenn. Sup. Ct. R. 9, §§ 28 and 30.4, regarding the obligations and responsibilities of suspended attorneys and the procedure for reinstatement.

(7) The Board of Professional Responsibility shall cause notice of this discipline to be published as required by Tenn. Sup. Ct. R. 9, § 28.11.

(8) Pursuant to Tenn. Sup. Ct. R. 9, § 28.1, this Order shall be effective upon entry.

PER CURIAM